BOARD OF ADJUSTMENT
MINUTES of Meeting No. 233
Thursday, April 7, 1977, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Guerrero, Chairman	Blessing	Edwards	Pauling, Legal Department
Jolly		Etter, Mrs.	
Purser, Mrs.		Gardner	Paul Jenkins, Zoning Inspector
Smith (out 3:50 p.m.)		Jones	

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

MINUTES:

On MOTION of JOLLY, the Board (4-0) approved the Minutes of March 17, 1977 (No. 232).

SPECIAL REQUESTS:

8770

Action Requested:
Variance (Section 930 - Bulk and Area Requirements in the Industrial District - Under the Provisions of Section 1670) for a variance of the side yard requirements from 25' to 1' 7" in an IL District located at 3920 East Pine Street; and

9068

Action Requested:
Variance (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1225 - Light Manufacturing and Industry - Under the Provisions of Section 1670) to allow storage of salvage materials on the property, under restrictions so as not to allow expansion of said use. In the alternative, applicant requests a finding by the Board that the use in progress on said land is a valid, nonconforming use, which may continue, subject to reasonable conditions and restrictions to be promulgated by this Board, in an IL District located at 3816 North 78th East Avenue; and

9431

Action Requested:
Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Area-Wide Uses) to locate a pre-release center for prisoners in a CH District located at 112 East 11th Street.

9431 (continued)

Presentation:
The Staff advised that the applicant for application 8770 had submitted a written request (Exhibit "A-1") that his application be withdrawn; that the applicant for application 9068 had submitted a written request (Exhibit "A-2") that his application be withdrawn; and that the applicant for application 9431 had submitted a written request (Exhibit "A-3") that his application be withdrawn.

Protests: None.

Board Action:
There being no objections, the Chair declared applications 8770, 9068 and 9431 withdrawn.

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 in a CS District; 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 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 units on one lot in a CS and RM-3 District located south and west of 41st Street and Garnett Road.

Presentation:
The Frates Company was not represented, but the Staff advised that the Company had requested a continuance of the subject application to May 5, 1977.

Protests: None.

Board Action:
On MOTION of PURSER, the Board (4-0) continued application 9421 to May 5, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9439

Action Requested:
Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a machine shop in an RS-2 District; and a Variance (Section 204 - Limitation on Land Use - Under the Provisions of Section 1670) to permit a small machine shop in a concrete block building behind residence to continue operation in an RS-2 District located at 1217 South 129th East Avenue.

9439 (continued)

Presentation:

The Staff advised that the applicant's attorney had submitted a written request (Exhibit "B-1") that the subject application be continued to May 5, 1977.

Protests:

There were protestants present who wished to have the application considered this date; however, the Board advised that it is the policy of the Board that a continuance will be granted once for either side of the application. Upon questioning by the Board, the Staff advised that the applicant had given no reason for the continuance. Those protestants present submitted their names (Exhibit "B-2") for the record.

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 9439 to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, permitting the protestants to leave their names and addresses with the Board Secretary for filing purposes.

UNFINISHED BUSINESS:

8799

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) to cease operation of a salvage yard in an RM-2 District; and a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to allow the operation of a salvage yard and automobile repair in an RM-2 District located at 4320 West 8th Street.

Presentation:

James Davidson, attorney for Leonard Fry, advised the Board that the application had been continued from various dates in order that a decision might be made by the Courts regarding principal use variances.

In the original hearing a petition was submitted containing 21 signatures which represented all but two of the property owners within 300' of the subject property--the people in support of the existing operation. Also, a petition, containing the signatures of 294 area residents in favor of the application, was submitted for the Board's records.

During the past years, the Building Inspector's Office would inspect the use on various occasions, contact the owner and the owner would contact Mr. Davidson and the attorney would then present proof to the Building Inspector's Office that the use was nonconforming. After going through this same procedure a number of times, Mr. Davidson advised, that Mr. Fry felt that an application before the Board to permit the use to continue would be appropriate and clear up any further questions of the Building Inspector's Office. At one point in time, Mr. Fry attempted to have the property rezoned, however, in

the Planning Commission meeting it was stated that the rezoning was not necessary since the use was a nonconforming use and the rezoning was withdrawn.

The subject property has been used commercially since 1920 or 1921 but it is not known what type of commercial use was made of the property because all those persons who would know are no longer available for comment; however, it is known that the property has been used for an auto salvage and repair for at least 30 years. Mr. Fry has been connected with the operation and this is his sole livelihood which he has operated since 1956 or 1957. Prior to this time he was an employee in the previous salvage operation. He found that there was a trucking operation on the property in 1920 but do not know if it was a salvage operation under the Code's interpretation. With regard to the property next door, there was an encroachment of that person's garage onto Mr. Fry's property and he has never said anything to the neighbor about this. At one time, it was necessary for a client of Mr. Fry's to utilize his portion of the property and the driveway next door, and Mr. Fry knows that this is not to happen again and because of this the area has been fenced. Also, a son of the neighbor who does not support the application worked as Mr. Fry's employee in the past. Mr. Davidson advised that because of the surrounding development there is no way to maintain the area in the character of its zoning classification.

Upon questioning, it was determined that the nonconforming use would have to meet the date that the property actually became a part of the City Limits or June, 1962 if the property is not within the City Limits. Mr. Davidson felt that the property was in the City Limits in 1926 or 1927 or 1936 and 1937, but he was not sure. Mr. Fry felt that the property was annexed in 1957, but Mr. Davidson felt that it was earlier than that date. In reviewing the Staff's information and records, Mr. Gardner advised that the north half of the property has been in the City Limits since February 7, 1928 and the south half is not within the City Limits to date.

Mr. Davidson noted that that portion of the property not within the City Limits is known as "Reserve A, B, C" on the plat. The property was used for auto repair and salvage in 1946, but no documentation has been found other than a statement that the commercial use was an auto salvage operation for sure. There has been a statement previously submitted by Judge Latham that there was a trucking service on the property in 1920.

David Pauling, Assistant City Attorney, with regard to this application and others to follow this date, advised that legally and procedurally there is a great difference between a proof of nonconforming use and a request for a principal use variance. Proof would allow the use to continue unmolested. When an applicant makes a request for a variance, the Ordinance and Statutes are very clear that the applicant has to justify a hardship, uniqueness to the property and the approval will not be in violation of the spirit and intent of the Zoning Code and Comprehensive Plan, and that by reason of the extraordinary or exception circumstances of his property the literal enforcement of the

8799 (continued)

Zoning Code would result in unnecessary hardship to the applicant. As an additional consideration, many times the problems that are associated with a variance can be mitigated by the imposition of conditions. Mr. Pauling felt it proper that any applicant before the Board requesting a principal use variance address these considerations and suggest conditions to the Board that he/she feels would be suitable to make the use compatible with the area, in order that the Board might more fully review the applicant's request.

Mr. Davidson advised that erecting a screen fence and agreeing to not park cars in front of the house itself were suggestions of the Building Inspector's Office.

Protests: None.

Board Action:

Board Member Jolly noted he was not yet ready to act on the variance and did not feel that the applicant had demonstrated the nonconforming use to 1928, therefore,

on MOTION of JOLLY, the Board (4-0) upheld the decision of the Building Inspector with regard to the ceasing of the operation of the automobile salvage yard.

In further discussion of the application and upon questioning, Mr. Davidson advised that there is a 5' net wire fence around the entire property with three strands of barbed wire strung across the top. The fence can be seen through as there are no slats in the fence. The salvage yard begins 150' from the street, there is a hill 200' back and the remainder of the operation cannot be seen unless one is standing atop the hill. With regard to the hardship, Mr. Davidson felt that the applicant had done everything possible when he purchased the property such as a request for rezoning which was determined by the Planning Commission at that time to not be necessary because the use was nonconforming. With regard to the guidelines proposed for principal use variances, Mr. Davidson noted that 8th Street is paved for access purposes, there is wire fencing around the property, and felt that the use would be more advantageous to the property rather than being redeveloped because of the flooding prior to and possibly since the levee was constructed. Mr. Davidson did not expect any further development on the property. Also, 294 signatures were obtained from those in the area who support the applicant's request to continue the operation on the subject property as the applicant cannot at his present age move the operation to another area of the City.

Mr. Gardner noted that other considerations might be the number of junk autos located on the property, the number of buildings located on the property, and the fact that the Board might consider the variance and hardship on the existing development and not the possible expansion of the development. The approval could be granted for the existing development only.

Mr. Fry, upon questioning by the Board, advised that there are approximately 200 salvage automobiles on the property at any one time, there is a 30' x 32' garage located behind one of the two residential structures, and with the exception of the 150' of the property in front of the residence the property is totally used for the salvage operation.

8799 (continued)

It was noted that the only possible room left for expansion was that portion of the property to the north of the residential structure (150').

On MOTION of JOLLY, the Board (4-0) granted a Variance (Section 410-Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to allow the operation of a salvage yard and automobile repair to be continued on the southern portion of the property no closer than 150' from the north property line with solid screening being required between the house and the salvage operation on this north property line, that no automobiles be stored on the northern 150' of the property, and that the size of the operation be maintained at its present size of no more than 200 salvage automobiles now located on the property, as presented, in an RM-2 District on the following described tract:

Lots 18 and 19, Block 2, Home Gardens Addition to the City of Tulsa, Oklahoma.

8461

Action Requested:
Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit off-street parking; and a Variance (Section 1670.1 - General) to establish off-street parking in an RM-1 District located at 912 West 24th Street.

Presentation:
Lee Roy Dunn requested the subject application be continued to May 5, 1977.

Protests: None.

Board Action:
On MOTION of JOLLY, the Board (4-0) continued application 8461 to May 5, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9120

Action Requested:
Appeal (Section 1650 - Appeals from the Building Inspector) to terminate an auto salvage operation; a Variance (Section 910 - Principal Uses Permitted in the Industrial District - Under the Provisions of Section 1670) to continue operation of an auto salvage yard; and an Exception (Section 250.3 (b) - Modification of the Screening Wall or Fence Requirements) for a modification of the screening requirements where an alternative screening will provide visual separation of uses in an IL District located at 123 North Peoria Avenue and the southwest corner of Peoria Avenue and Easton Street.

Presentation:
Bob Butler, representing Earl Reynolds, advised the Board that at the previous Board hearings on the application, evidence of nonconforming use including petitions from surrounding property owners was submitted. The salvage operation presently exists on both the east and

west sides of Peoria. Mr. Reynolds began the operation on the east side (Capitol Hill) in 1938 and expanded to the west side of Peoria (Frisco Addition) in 1953. In the Staff's study previously submitted, it was determined that there was no question as to the nonconforming use status of the southern properties on the west side of Peoria, but on the east side of Peoria the operation began in 1938. Mr. Butler advised evidence has been submitted that there was a salvage operation and used car lot prior to that time but the exact number of years is not known. Since 1939, the operations have been continuous and permits have been previously submitted as evidence that the operation on the west side of Peoria has been in business since 1953 and the operation on the east side of Peoria since 1938. The 1945 Ordinance showed the property on the east side of Peoria zoned U-3, the 1957 Ordinance showed the property zoned U-4A, and the 1970 Ordinance showed the property zoned IL. Mr. Butler advised that Mr. Reynolds has been in possession of this property in one form or another since 1938, and affidvits have been previously submitted from many property owners in the area to that effect. The property backs to the railroad and is not conducive for development other than the salvage-type operation, and Mr. Reynolds has had no other occupation than the salvage operation since 1938.

Protests:

Nick Jones, representing Printed Products, Inc., concerning the lots immediately south of Easton, on the west side of Peoria, advised that these lots have not continuously been used for auto salvage purposes. He submitted two affidavits (Exhibit "C-1") that advise that these lots were used for leased parking by Zebco between 1955 and 1965 and that Mr. Reynolds had approached Printed Products, Inc., in 1969 with regard to leasing the lots for parking. When the Company refused to lease the lots, Mr. Reynolds then began using the lots for salvage expansion.

For clarification purposes, Mr. Gardner advised that the west side of Peoria was zoned U-4, not the east side of Peoria, so we are now back to the question of how long the operations have been in business. Upon questioning, Mr. Gardner noted that the memorandum states that the east side of Peoria was never zoned in a category to accommodate an auto salvage and the applicant must demonstrate that he was operating prior to 1923. On the west side of Peoria, the memorandum indicates that the U-4 zoning was placed on the property in 1945 and the applicant has not stated that the operation existed prior to that time.

Mr. Jones felt that the applicant had not given pertinent proof to support the nonconforming use on the east side of Peoria, nor the northern tier of lots on the west side of Peoria.

Concerning the variance, Mr. Jones advised that the grass is not cut and maintained and that the uses being made of the property and their related activities are obnoxious to the neighborhood and surrounding development. Mr. Jones felt that the land could be used for some type of commercial use within the IL zoning as others in the area. As to undue hardship, Mr. Jones did not feel that this being the applicant's only occupation and experience was substantial to support a hardship.

Floyd G. Chamberlain, 745 East Easton, representing Printed Products, Inc., advised that the Company has been in business at its present location since 1968 and the salvaged automobiles were placed on the northern tier of lots after the Company located in the area. There have been children in the area of the salvage operation, there are numerous rodents connected with the operation and automobiles are being burned on the property. The grass surrounding the operation is not maintained and there have been fires from time to time. He felt the uses were a detriment to the area.

Mr. Butler welcomed the Board to view the properties under application concerning the renting of the property for parking purposes. Mr. Butler advised that there is noting to prohibit the use of the property for rented parking while the salvage is being operated at the same time. By affidavit, the Board has been advised that the operation has been in existence continuously on the west side since 1953 and the balance was secured in 1954. The property has been maintained as an auto salvage even though a portion was rented for parking purposes. With regard to the property to the east, Mr. Butler advised that since 1923 the zoning was U-1, the operation began in 1938, the zoning was U-3 in 1939, the Ordinances revised in 1945 and the property zoned U-3, in 1957 the property was zoned U-4A, and in 1970 it was zoned IL, per the Staff memorandum, Table 2. With regard to complying with the guidelines set forth in the memorandum concerning principal use variances, Mr. Butler advised that there is access to the operations via Peoria and Easton. Also, no evidence has been presented to the Board stating that in 1970 Mr. Reynolds was requested to stop the operation. In examining the past records of the City, it was found that Mr. Reynolds had made inquiries because the Building Inspector's Office had requested information concerning the zoning problems in existence since 1938. When the application was presented to the Board previously, the Board discussed the fact that in the rezoning of these areas in Tulsa, this part of the City was apparently overlooked as the operation has been in existence with the same name since 1938. Therefore, in the changing of the zoning ordinances the City must have erred. There is nothing in the file, no law suits and nothing in writing that this operation has created a nuisance for the area and the area residents want the operation stopped. Now before the Board because of an omission by the City, which has drawn some opposition from some area property owners. He noted that there were previously several people present in favor of the operation.

Mr. Jones, in his final statements to the Board concerning the northern tier of lots on the west side of Peoria, advised that there were no cars on the property when Mr. Chamberlain moved the Company into this area. Also, Lots 5 and 8 were not purchased by Mr. Reynolds earlier than 1961.

Upon questioning, Mr. Butler advised that there are no buildings on the lots fronting Easton Street.

Concerning the screening modification, the Staff advised that there is an existing chain link fence and the application previously requested that the screening be modified in order that shrubbery along

this fence might be used for visual separation. From a planning standpoint, Mr. Gardner felt that screening should be provided on the north (abutting the alley) and west lines of the southern tier of lots to the west, and that screening should be required on the northern and eastern boundaries of the operation to the east. The applicant advised that slats would be placed in the chain link if necessary.

Board Action:

On MOTION of JOLLY, the Board (4-0) upheld the decision of the Building Inspector to terminate an auto salvage operation.

On MOTION of SMITH, the Board (4-0) granted a Variance (Section 910 - Principal Uses Permitted in the Industrial District - Under the Provisions of Section 1670) to continue the operation of an auto salvage on the properties under application, with the exception of the four lots north of the alley fronting Easton (Lots 3, 4, 5, and 6, Block 8, Frisco Addition), in an IL District on the following described tract:

Lots 49, 50, 51, and 52, Block 8, Frisco Addition; and Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 15, Capitol Hill Addition, all to the City of Tulsa, Oklahoma.

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 250.3 (b) - Modification of the Screening Wall or Fence Requirements) that the north and west boundary lines of the southern tier of lots in Frisco Addition be screened and the north and east boundary lines of the lots in Capitol Hill Addition be screened by chain link with slats and shrubbery, in an IL District on the following described tract:

Lots 49, 50, 51, and 52, Block 8, Frisco Addition; and Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, Block 15, Capitol Hill Addition, all to the City of Tulsa, Oklahoma.

9142

Action Requested:

Variance (Section 910 - Principal Uses Permitted in Industrial Districts - Under the Provisions of Section 1670) to maintain a mobile home in an IM District located at 9 North 32nd West Avenue.

Presentation:

Raymond Brobst requested permission to maintain the mobile home on the subject property as a residence advising that he had previously submitted a petition in favor of the application signed by residents in the area who have no objection.

Mr. Gardner advised that the Code does not permit a residence in the Industrial District, but the entire area is residential in nature and the variance can be considered if the Board finds that there is a hardship. The zoning is unique to the actual use of the property.

Upon questioning, Mr. Brobst advised that there are mobile homes in the immediate area and that a two-block radius contains residential structures even though the property is zoned industrial. Mr. Brobst

9142 (continued)

advised he planned to reside on the property in the mobile home the reaminder of his lifetime.

The Staff advised that the hardship is the blanket industrial zoning classification because the area is developed totally residential.

Protests: None.

Board Action:
On MOTION of SMITH, the Board (4-0) granted a Variance (Section 910-Principal Uses Permitted in the Industrial Districts - Under the Provisions of Section 1670) to maintain a mobile home for the applicant only, in an IL District on the following described tract:

The West 50 feet of Lots 5, 6, and 7, Block 2, Tower View Addition to the City of Tulsa, Oklahoma.

9389

Action Requested:
Exception (Section 630 - Bulk and Area Requirements in the Office District - Under the Provisions of Section 1670) to erect a two-story building with 40% coverage in an OL District located southeast of 21st Street and Braden Avenue.

Presentation:
Dr. V. H. Trotter advised the Board that his application had been continued from a previous meeting in order that he might submit a corrected plot plan meeting the Code requirements. Dr. Trotter submitted the plot plan (Exhibit "D-1") for the Board's review.

Protests: None.

Board Action:
On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 630 - Bulk and Area Requirements in the Office District - Under the Provisions of Section 1670) to erect a two-story building with 40% coverage, per plot plan, in an OL District on the following described tract:

Lot 1, Block 6, Gracemont Third Addition to the City of Tulsa, Oklahoma.

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:
The applicant, Barry Buchanan, was not present. The Staff advised that he had been notified by registered mail (receipt returned to the Board) that the subject application would be dispensed with this date with or without his presence.

9394 (continued)

Protests: There were protestants present.

Board Action:
On MOTION of JOLLY, the Board (4-0) declared application 9394 stricken.

9402

Action Requested:
Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to permit the erection of a warehouse and maintenance facility in an RS-3 District located at 4927 South Tacoma Avenue.

Presentation:
Mr. Gardner advised the Board that the rezoning application filed on the subject property for OL zoning was not heard April 6 due to the Commission not having a quorum; therefore, the rezoning was continued to April 13. The rezoning application was filed on recommendation of the Staff since a determination regarding principal use variances had not been made by the Courts at the time the application was filed.

Richard Morgan advised the Board that the subject property has been used as a trucking operation for the past 30+ years. The operation includes three buildings and truck storage. Mr. Morgan requested that the old structure be permitted to be demolished and a new structure erected as its replacement because the existing structure cannot economically be restored. The new structure is approximately the same size as shown on the plot plan (Exhibit "E-1") and must be constructed prior to the old building being razed. The original structure was erected to service trucks and the new building will be used for the same purpose.

Mr. Gardner pointed out that the Board could grant a principal use variance under the present notice if the use is found acceptable, or the use could be approved as a special exception subject to the rezoning of the property. In either case, the applicant does have an existing security fence along the northern boundary of 49th Street and there are two houses on the northeast corner of the plan where the screening stops. Mr. Gardner pointed out that the Staff is not concerned with the westernmost structure as much as it is concerned with not granting the exception on the north 100' of the east 77' of the property--the Staff's recommendation regarding rezoning. Should the zoning be approved, the Staff would feel more comfortable with the exception being granted rather than the principal use variance. David Pauling, Assistant City Attorney, also felt that the rezoning with the use being permitted via exception would be the best route as opposed to the granting of a principal use variance.

With regard to screening, it was felt that slats should be provided in the existing fence on 49th Street and that screening along the eastern boundary be provided excluding the north 100' of the east 77'.

Protests: None.

9402 (continued)

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 610 - Principal Uses Permitted in the Office District) to permit the erection of a warehouse and maintenance facility, subject to the rezoning of the property to OL and subject to proper screening (slats placed in the existing wire fence) being placed on the north of 49th Street to exclude the structure in the northeast corner of the plan and along the eastern boundary of the project, except the north 100', per Plan; and continued the Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, to await the outcome of the rezoning application.

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 PURSER, the Board (3-0) continued application 9410 to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

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.

David Pauling, Assistant City Attorney, advised the Board that the Tulsa City-County Health Department had issued a "cease and desist" order and the attorney for the Health Department had advised that the operation was stopped March 18, 1977.

The Staff advised that the applicant was notified of the continuance to this date and did not appear.

Protests: There were protestants present.

Board Action:

On MOTION of PURSER, the Board (4-0) declared the application stricken.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's nursery in an RS-3 District located at 3320 South 93rd East Avenue.

Presentation:

B. W. Ockerman requested permission to operate a children's nursery on the subject property in order that 28-32 children might be cared for, advising that for the past two years five children or less have been cared for in the residence. The structure is fenced and contains 2,000 square feet of floor area. Mr. Ockerman advised that notice had been sent to individuals within 300' of the application and that he did not wish to undertake an operation that would devalue properties in the area. He noted he would be willing to agree to specific conditions imposed by the Board such that no changes would be made to the residential appearance of the structure other than residential changes such as a circular drive, no signs and limited to two or three years. The ages of children cared for would be from infants to two years only as there are not enough available centers throughout the City for infants. The hours of operation would be 7:30 a.m. to 5:30 p.m.

Upon questioning, Mr. Ockerman advised that he presently resides in the residence, but should the application be granted he would leave the home. Mr. Ockerman noted he wanted to operate legally as there are other facilities within the neighborhood that are not licensed and in violation. He pointed out that the State Health Department had advised that his present operation was in compliance with the law.

Mr. Gardner, upon questioning by the Board, advised that the property is not a corner lot and surrounded by single-family residences.

Interested Party:

Janell Singleton, licensing worker for the State of Oklahoma, advised the Board that a family care home as defined by State law permits five children to be cared for in the home without licensing, while a day care center permits a greater number of children per requirements and licensing.

David Pauling, Assistant City Attorney, cited portions of the Code advising that this is a residential property and only two children more than reside in the home on a permanent basis can be cared for at any one time.

Protests:

George Krepps, 3326 South 93rd East Avenue, submitted a petition (Exhibit "F-1") containing the signatures of 89 area residents opposed to the subject application on the grounds that they had purchased their individual properties in good faith that the area would remain in a residential character, that their property values would be destroyed, and that the use would adversely affect the safety of the neighborhood with regard to increased traffic congestion. Mr. Krepps advised that South 93rd East Avenue is a narrow street and does not provide the circulation that would be necessary to handle

the traffic involved in such an operation. Also, he pointed out that there are flood problems in the area and the residents were concerned with the safety of infants in the area should the area flood quickly.

Ethel Krepps, 3326 South 93rd East Avenue, advised the Board that she and her family have lived in the area since 1964 and that four different families have resided in the home under application. Mrs. Krepps advised that the subject property is 150' from Mingo Creek, expressing concern for the children should the Creek flood. Also, there would be no one living in the structure to maintain its residential appearance, the street is part of the bus route, the applicant has three cars, and the curve in the street would create a problem and hazard for those picking up and delivering children at the center. Mrs. Krepps advised that 15 people were present at the previous meeting in opposition to the application, stayed the entire meeting and found that the applicant was not going to appear; however, the residents are again present to express their concerns with regard to the application.

John Fleak, 3317 South 93rd East Avenue, supported the previous statements presented including traffic congestion, the bus route and the fact that within three blocks of the property is Briarwood Park which contains a swimming pool. Mr. Fleak advised that South 93rd East Avenue is a thoroughfare at present and cannot withstand increased traffic or the congestion related to the use. This is a residential area and the residents want to see the area maintained as such. He also stated he had not received notice of the hearing.

Betty Brandon, 9029 East 32nd Street, advised that the applicant had stated he was now licensed to care for children; however, Mrs. Brandon did not feel that he had always been licensed to care for children in the home. She felt that approval of the application would be a burden to her as she would then be forced to move from the area.

The Staff submitted 9 protest letters (Exhibit "F-2") received by the Board.

William Dale, District 17 Zoning Committee Chairman, advised the Board that the District was concerned, in preparing their District Plan, that any such use would create a domino effect as others would also want to do the same if the subject application were approved. The area is a well-established residential area and the application should not be permitted. He reaffirmed the statements presented regarding traffic safety and congestion.

With regard to Mr. Fleak having not received notice of the hearing, Mr. Ockerman advised that he had used a list of names compiled by the County for tax purposes, further advising he would not have made application for the use if he had known of the number of protests.

David Pauling, Assistant City Attorney, stated that even though written notice was not received by Mr. Fleak, his being present was proof enough that he received notice of some kind.

9428 (continued)

Board Action:

On MOTION of SMITH, the Board (4-0) denied application 9428 and directed the Building Inspector to investigate the use being undertaken at the present time to determine whether or not a "cease and desist" order is necessary, in an RS-3 District on the following described tract:

Lot 16, Block 15, of Blocks 10 thru 17 (inclusive), Briarwood Second Addition to the City of Tulsa, Oklahoma.

(Smith out at 3:50 p.m.)

NEW APPLICATIONS:

9386

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a home beauty shop in an RS-3 District located at 323 South 42nd West Ave.

Presentation:

Frances Straessle requested permission to operate a beauty shop in her home to help supplement the family's income. She advised that she would have no more than two patrons at a time and that her hours of operation would be 8 a.m. to 5 p.m., Wednesday through Saturday, and 5 p.m. to 9 p.m. Tuesday evening. Upon questioning, Mrs. Straessle advised that no sign would be posted and that she had a single driveway but had intended to widen the driveway to accommodate two automobiles.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a home beauty shop, as presented, in an RS-3 District on the following described tract:

Lot 16, Block 1, Hayden-Lewis Addition to the City of Tulsa, Oklahoma.

9424

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to maintain a mobile home in an RS-1 District located southeast of 137th East Avenue and 111th Street.

Presentation:

Mrs. Louis Richardson requested an extension of the Board's previous approval to locate a mobile home on the subject property in order that she and her husband might move to Oklahoma and build a home this summer. There are people renting the mobile home at present in order that they might watch the tractor and other farm equipment located on the property. She noted that several improvements had been made on the tract in preparation of building the home.

9424 (continued)

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to maintain a mobile home for a period of one year, subject to the customary removal bond in an RS-1 District on the following described tract:

The South 710' of the following described tract of land: Beginning at a point 435' east and 596' South of the Northeast corner of the NW/4 of the NW/4 of the NE/4, in Section 33, Township 18 North, Range 14 East; thence East 220'; thence South 880'; thence Southeasterly 336'; thence East 25'; thence South 30'; thence West 118'; thence South 810'; thence West 220'; thence North 2,044' to the point of beginning, Tulsa County, Oklahoma.

9435

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to allow a commercial vehicle to be parking in an RS-3 District located at 120 South 36th West Avenue.

Presentation:

Leonard Smith advised the Board that he drives a truck for a living and would like to park it at his residence when he is home, noting he was out of town 266 days last year.

Paul Jenkins, Zoning Inspector, advised the Board that the applicant also has a garage on the property, pointing out that the person complaining has never identified herself but has called City officials a number of times.

Upon questioning, David Pauling, Assistant City Attorney, advised that the Board must look at the question of the use being accessory to the residential use.

Protests: None.

Interested Party:

Mrs. David Saxton, 117 South 36th Place West, advised the Board that Mr. Smith parks his truck on the street and partly on his property or in his garage and bothers no one. She noted he had always met the desires of the neighborhood with regard to his truck and its parking, etc. Many neighbors in the area are not opposed to his parking the truck in the area.

Upon questioning by Board Member Jolly, Mr. Smith advised that he would be willing to keep the truck in his garage and off the street, with all work being done inside. Board Member Jolly noted that the use is not a normal accessory use to a home in an RS-3 District, but it is a livelihood. He felt that the use would be permissible if the truck were kept in the garage at all times.

9435 (continued)

Board Action:

On MOTION of JOLLY, the Board (3-0) voted unanimously to uphold the appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a commercial vehicle to be parked in an RS-3 District, and approved the applicant's use as accessory in this instance so long as the truck is kept in the garage at all times, on the following described tract:

The North 50' of the South 100' of Lot 12, Block "A", Joe Subdivision to the City of Tulsa, Oklahoma.

9436

Action Requested:

Interpretation (Section 1660 - Interpretation) request for recognition of a nonconforming use of unimproved land as defined by Section 1410 of the Zoning Code, as it is the applicant's contention that the present use, a salvage operation, has been in effect on a continuous and uninterrupted basis since 1957 and that the structures employed in connection with such use are all accessory or incidental to such use; and a Variance (Section 310 - Principal Uses Permitted in the Agricultural District - Section 1227 - Heavy Manufacturing and Industry) to allow the continuance of the salvage yard operation in an AG District located at 1715 East 86th Street North.

Presentation:

Upon questioning by the Board, Mr. Gardner advised that June, 1962 is the date to be used in determining a nonconforming use in this area.

Patrick J. Malloy, III, representing the property owner, advised the Board that the application concerns itself primarily with the five acres located in the southwestern portion of the property under application. Mr. Malloy submitted five affidavits (Exhibit "G-1") signed by persons familiar with the continued use of the property since 1957 which is well before the 1962 date under consideration. Mr. Malloy advised that his client wanted to be assured of the life span of the nonconforming use as stated in the application, noting that he is interested in the Board's recognizing that the use has been a valid nonconforming use since 1957.

David Pauling, Assistant City Attorney, cited that portion of the Zoning Code regarding nonconforming uses, 10% coverage and amortization. Mr. Malloy submitted a plot plan (Exhibit "G-2"), denoting the two structures which are concrete block buildings, one having an overhead door and the other two walk-in doors. In reviewing the structures and square footages, Mr. Malloy advised that per the Code and amortization clause the use could be continued for a period of 130 years if it were found to be nonconforming.

Protests:

John Gotcher, owner of 70 acres located 300' east of the subject property, advised the Board that he purchased his property one year ago at which time there was no salvage operation being undertaken on the subject property. There was once a fire inside one of the

concrete buildings and he broke the door down to see if anyone might be inside. Upon entering the structure he found that there was nothing inside the structure to show that a salvage operation was or had been in operation. He expressed concern with regard to the flooding of Bird Creek, noting he did not want debris from a salvage operation floating onto his property when the property again floods.

Joe McElroy, 909 East 59th Place North, owner of the 10-acres to the south and across the street from the subject property, advised the Board that he purchased his property in 1970 and there was no salvage operation being undertaken at that time, and if there had been he would not have purchased the property. There have been old drilling rigs on the back portion of the property, but noting else to constitute a salvage operation. If salvage is permitted on the property and flooding occurs as it did in 1974, the debris and oil would ruin his property.

Dr. R. G. Snuggs, 1748 South Knoxville, owner of 10-acres to the east of the subject property, advised the Board that he has owned his property since 1945 and did not feel that the Board had been given an accurate picture of the situation. In addition to the two concrete block buildings there is a residence and cattle sheds on the property. Most of the time he has known the property has been used for residential purposes, not salvage. There may have been a salvage operation at one time, Dr. Snuggs advised, but there had not been a continuous use of the property for that purpose for the greater part of the past 20 years. Dr. Snuggs felt that the use would devalue property in the area and discourage his plans for building a home when the flooding of Bird Creek is corrected. With regard to flooding, Dr. Snuggs advised he had seen four feet of water on the property in the last three years, feeling that the environmental impact of the use should be considered. Also, he felt that approval of the application would block growth in this area north of the City. Dr. Snuggs requested the application be denied as inadequate information had been given.

Mr. Malloy again noted that affidavits from persons under oath had been submitted as to the operation and use of the property. Also, he did not feel that the environmental aspects were extremely pertinent to the issue as opposed to the fact that the salvage operation has been in operation as the persons signing the affidavits have demonstrated.

C. E. Wells, owner of the subject property, advised the Board that he resided in the residence in 1957, the same year that the salvage operation was begun. He noted that the portion of the application being considered is the five acres which contain the concrete block buildings and not the remaining 15 acres. Until 1970 there was a salvage yard with 300 automobiles and in 1960 an oil field supply utilized the property for salvage use for ten years at which time the operation reverted back to an automobile salvage operation and garage. A manufacturing use was undertaken in the garage, but the oil field equipment was still located on the rear portion of the property. Since 1974 there have been several different operations on the property.

9436 (continued)

Upon questioning, Mr. Wells advised that only the five acres in question was used for salvage purposes as the structures were constructed in 1957 specifically for that purpose, while the residential structure was constructed prior to 1957. Upon questioning by the Chair, Mr. Pauling advised that the change from automobile salvage to oil field salvage constitutes a change in use. Upon questioning by the Board, Dr. Snuggs advised that no active commercial salvage was in operation and that he did not consider field equipment storage a salvage operation.

Mr. Pauling noted that a protestant present had submitted a letter (Exhibit "G-3") advising that he had not received notice of the hearing; however, his presence at the meeting this date would in his opinion constitute sufficient notice.

Board Action:

On MOTION of PURSER, the Board (3-0) interpreted that the applicant had not sufficiently proven the nonconforming use of the subject property located in an AG District on the following described tract:

The E/2, SE/4, SW/4, of Section 19, Township 21 North, Range 13 East, Tulsa County, Oklahoma.

Patrick Malloy, Sr. felt that the variance had been presented in the original presentation and that a decision on the variance should be rendered this date based on information presented. Board Members Jolly and Purser did not feel that information concerning the variance had been presented. Mr. Malloy, III requested a continuance of the variance in order that he might be prepared to present the variance per the principal use guidelines.

On MOTION of JOLLY, the Board (3-0) continued the variance portion of the subject application, #9436, to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9438

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 2171 East 46th Street North.

Presentation:

Al Colbert, representing the applicant, requested permission to operate a day care center on the subject two-acre tract 12 hours a day, noting that the existing structure will be remodeled and expanded and the yard fenced. Upon questioning, Mr. Colbert advised that a parking lot and circular drive are proposed, with access to 46th Street North. The requirements are that one child is permitted per five square feet of floor area and the structure will be 1,000 square feet in size.

Protests: None.

9438 (continued)

Board Action:

On MOTION of JOLLY, the Board (3-0) 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 as presented in an RS-3 District on the following described tract:

Lot 8, except the West 125' of the East 140' of the North 150' thereof; Block 1, North Highland Acres Addition to the City of Tulsa, Oklahoma.

9440

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for educational purposes and related off-street parking; and a Variance (Section 1205.4 - Off-Street Parking and Loading Requirements - Under the Provisions of Section 1670) for a variance of the requirement of parking spaces on the same lot as the use in an RM-2 District located at 2815 East 4th Place, 820 South Florence Avenue, and 2119 East 5th Place.

Presentation:

Donald Detrich, representing the University of Tulsa, requested an exception be approved to permit use of the three subject properties for educational services and related off-street parking and that a variance be granted with regard to parking being located on the same lot as the use. The University is in the process of constructing a new alumni center on the south side of the campus and is in the process of doubling the size of John Mabee Hall on the north side of the campus. As a result, four parking lots or the equivalent of 80 parking spaces were lost which dictates the need for additional parking on both sides of the campus. Because the University does not have the power of eminent domain, the properties in the area can only be improved when they are acquired. The use of the three properties under application will be compatible with the surrounding area and will be in harmony with the spirit and intent of the Zoning Code. Concerning the first lot, the property to the west is a vacant lot owned by the University, to the east is a single-family dwelling owned by the University, and across the street is a 15-unit apartment complex and tennis courts. The second lot is surrounded by University property and contains an apartment complex that will be utilized as office space. The third lot is located across the street from Skelly Stadium, south of a single-family residence which is for sale and north of a parking lot utilized by an apartment complex. Lots 2 and 3 are currently fenced. The proposed improvement of the lots under application is a part of the overall development plan for the University as was adopted in concept by the Board.

Protests:

None.

9440 (continued)

Board Action:

On MOTION of PURSER, the Board (3-0) approved an Exception (Section 410-Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for educational purposes and related off-street parking; and granted a Variance (Section 1205.4 - Off-Street Parking and Loading Requirements - Under the Provisions of Section 1670) for a variance of the requirements of parking spaced on the same lot as the use, with the understanding that no request was made for waiver of any other requirements including screening, in an RM-2 District on the following described tract:

Lot 40, Block 1, Lot 5, Block 23; and Lot 20, Block 8, All in College Addition to the City of Tulsa, Oklahoma.

9441

Action Requested:

Variance (Section 410 - Principal Uses Permitted in Residential Districts-Section 1217 - Automotive and Allied Activities - Under the Provisions of Section 1670) to park new and used automobiles in an RM-3 District located on the north side of 8th Street between Madison and Norfolk Avenues.

Presentation:

Ben Franklin, the applicant, was not present.

Protests:

There were protestants present.

It was pointed out that this is the first hearing for the application and the Board felt that the protestants should have the opportunity to present their names and addresses (Exhibit "H-1") for the record.

Board Action:

On MOTION of PURSER, the Board (3-0) continued application 9441 to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9442

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a used car lot and retail sales of tires and auto parts; and an Exception (Section 1420 (f) - Nonconforming Use of Buildings or Buildings and Land in Combination) to permit a used car lot and retail sales of tires and auto parts in an RS-3 District located at 2772 North Peoria Avenue.

Presentation:

Ray Smith advised the Board that the Tulsa Urban Renewal Authority had purchased the property on which he operated the use and he was forced to relocate his operation which needs approval in order for him to continue the operation. Because he plans to make improvements to the subject property, Mr. Smith advised approval is needed in order that the improvements can be undertaken.

9442 (continued)

Board Member Jolly, in discussion, advised that the use requested is less objectionable than the use the Board agreed to in 1962, feeling the Board could uphold the decision of the Building Inspector and find the Board's previous approval of nonconforming use, excluding the salvage.

Board Action:

JOLLY moved to uphold the appeal and find that the application should be permitted including a used car lot, retail sales of tires and auto parts, excluding an auto salvage, after which Mr. Smith questioned if he was permitted to use old cars for parts.

Paul Jenkins, Zoning Inspector, advised the Board that the applicant buys cars in the winter and stores them on the property while the parts are removed from the cars, then the car bodies are sold for junk.

On MOTION of JOLLY, the Board (3-0) upheld the Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a used car lot and retail sales of tires and auto parts; and approved an Exception (Section 1420 (f) - Nonconforming Use of Buildings or Buildings and Land in Combination) to permit a used car lot and retail sales of tires and auto parts, subject to no more than five automobiles in a state of disrepair for dismantling purposes being located on the property at any one time, such dismantling to take place in the garage and subject to the automobile bodies being removed from the property when the auto parts have been removed, in an RS-3 District on the following described tract:

Lots 4 and 5, Block 1, Jack Hawkins Addition to the City of Tulsa, Oklahoma.

9443

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a home beauty shop in an RS-3 District located at 4370 South Braden Avenue.

Presentation:

Jim Shofner, representing the applicant, requested the applicant be permitted to operate a home beauty shop for economic reasons, noting that one-half of the garage would be converted to accommodate the beauty shop and a double-wide driveway exists for parking the cars of the patrons. There will be no more than one or two patrons scheduled at any time as there will be only two dryers and one shampoo station to accommodate the operation. The applicant, Mr. Shofner advised is aware of the home occupation regulations and plans to operate Tuesdays and Thursdays between 8:30 a.m. and 6:30 p.m. and Wednesdays and Fridays between 8:00 a.m. and 4:00 p.m.

Protests:

T. F. Price, 4341 South Braden, advised the Board that he had resided in the area for 21 years and had circulated a petition (Exhibit "I-1") containing the signatures of 46 persons residing within 300' of the subject property--39 persons opposed and 7 persons in favor of the use.

9443 (continued)

Of the 18 residences on South Braden, 14 are opposed to the use and 4 are in favor of the use. Mr. Price felt that the residential district was well kept in the $44,000 - $46,000 range and the application could create economic instability in the neighborhood. Because the area is strictly residential, it was felt that the use would set a dangerous precedence for other applicants in the future as there are other beauty operators who might wish to make the same request. Mr. Price advised of the traffic problems in the area, especially during the holiday seasons when the traffic is increased at Southland Shopping Center. Mr. Price felt that the applicant could obtain work in many shops in the City without disrupting the residential integrity of the neighborhood.

Charlie Star, 5010 East 45th Street, repeated the traffic concerns of the residents in the area, feeling that the statement that the shop was being requested for economic purposes was true for this particular family.

Mr. Shofner advised the Board that there is a beauty shop within several blocks of the subject property which has not complied with the regulations of the home occupation. Mr. Shofner advised that there is room for off-street parking on the tract and that ingress and egress would not be a problem.

Board Action:

On MOTION of PURSER, the Board (3-0) denied application 9443 in an RS-3 District on the following described tract:

Lot 17, Block 10, Max Campbell Fifth Addition to the City of Tulsa, Oklahoma.

9444

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the front setback requirements from 35' to 10' to permit the erection of a porte-cochere in an RS-1 District located in the 8000 Block of South Jamestown Avenue.

Presentation:

A representative for M. D. Mullenax submitted the plot plan (Exhibit "J-1") requesting a variance of the front setback requirements from 35' to 10' to permit the erection of a porte-cochere, noting that the topography of the land presents a development problem in meeting the required setbacks. Because of the property elevation, the top of the porte-cochere is 5' above the street level rather than the entire structure.

Protests:

James Davidson, representing nine property owners in the area, advised the Board that topography was a problem to the other residents also, but they managed to meet the requirements of the Code when having their homes built. The value of the residences in this area are between $200,000 and $300,000, and it is felt by the area residents that Dr. Mullenax should not impose on his neighbors. Mr. Davidson felt that the request would set a precedence and devalue the neighborhood as Dr. Mullenax was aware of the topography and Code requirements when he purchased the property for development.

9444 (continued)

Dr. Mullenax requested the Board deny his application, noting that the house was not designed with a porte-cochere in mind, but it was felt later that the porte-cochere would enhance the appearance of the structure. He advised he wanted to be friends with the neighbors rather than create dissention.

Board Action:

On MOTION of JOLLY, the Board (3-0) denied application 9444 in an RS-1 District at the request of the applicant:

Lot 5, Block 3, Timbercrest Addition to the City of Tulsa, Okla.

9445

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to operate a kennel in conjunction with an animal hospital in a CS District located at 2301 East 71st Street.

Presentation:

Jim Shofner, representing John Hammond, submitted a plot plan and requested that his client be permitted to construct grooming and boarding facilities on the rear portion of the subject tract. The proposed structure is a 40' x 50' metal building, fully insulated and enclosed with air conditioning and filters for the grooming and overnight boarding of animals. Upon questioning, Mr. Shofner advised that the property to the north has horses, to the west is a vacant property with no improvements, and the property owner to the east has no objections to the use. Mr. Shofner advised that he was not aware of any objections to the proposed application.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 710-Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to operate a grooming and boarding facility on the subject property, per plot plan and as presented, subject to the applicant's returning to the Board with final plans in order that the Board might be assured that the RM-2 District will be protected, in a CS District on the following described tract:

Part of the SE/4, SE/4, of Section 6, Township 18 North, Range 13 East, City of Tulsa, Tulsa County, Oklahoma, more particularly described as beginning at the Southwest corner of the SE/4, SE/4, SE/4; thence North 270'; East 100'; South 270'; West 100' to the point of beginning, less the South 195' thereof.

9446

Action Requested:

Variance (Section 240.2 (e) - Permitted Yard Obstructions - Under the Provisions of Section 1670) to permit a detached accessory building from 373 square feet to 528 square feet in size in an RS-3 District located at 5730 East 21st Street.

9446 (continued)

Presentation:
Dwight Smith submitted the plot plan (Exhibit "K-1"), advising the Board that the Code permits the construction of an 18' x 20' garage which is inadequate for two cars. He requested he be permitted to construct a 22' x 24' structure for two cars, noting that the residence has a one-car garage which is not large enough to park one car. This garage will be converted as an extension of the kitchen if the subject application is approved.

Protests: None.

Board Action:
On MOTION of PURSER, the Board (3-0) granted a Variance (Section 240.2 (e) - Permitted Yard Obstructions - Under the Provisions of Section 1670) to permit a detached accessory building from 373 square feet to 528 square feet in size, per plot plan, in an RS-3 District on the following described tract:

Lot 3, Block 2, Mary Frances Addition to the City of Tulsa, Okla.

9448

Action Requested:
Variance (Section 730 - Bulk and Area Requirements in Industrial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from an R District from 75' to 50' in an IL District located at 7400 East 46th Place.

Presentation:
William Doyle, attorney representing Cameron Investment Corporation, Advised the Board that the variance had been granted in 1973 due to the odd shape of the property but the structure was not built within the allotted time and is again being requested. Mr. Doyle advised that Mr. Cameron has built a home to the north with a 50' rear yard and to the south with a 50' rear yard, therefore the subject variance would align the structure with the other developments.

Protests: None.

Board Action:
On MOTION of PURSER, the Board (3-0) granted a Variance (Section 730 - Bulk and Area Requirements in Industrial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from an R District from 75' to 50' in an IL District on the following described tract:

Lot 3, Block 2, Industrial Equipment Center Third Addition to the City of Tulsa, Oklahoma.

9449

Action Requested:
Exception (Section 410 - Principal Uses Permitted in Residential Districts- Section 440 (2) - Home Occupations) to operate a wrecker business office in a residence in an RS-3 District located at 5342 South 32nd West Ave.

9449 (continued)

Presentation:

Mrs. William Taulman advised the Board that a complaint had been filed with regard to their wrecker business. She requested permission to permit herself to handle bookkeeping and the telephone for their office in the home in conjunction with the wrecker service. Also, she and her husband request permission to park a wrecker on their driveway. She submitted two photos (Exhibit "L-1") advising that the wrecker business is located in a commercial area, that there are three wreckers involved in the business--her husband keeps one at his home and the two employees each keep a wrecker at their homes. Mrs. Taulman advised that the business works for AAA, with the City police and the Highway Patrol and a wrecker is required to be parked at the home at night. She submitted photographs (Exhibit "L-2") of her property and the truck parked in her driveway, not on the street. Upon questioning Mrs. Taulman advised that the other truckers come once a week and sometimes twice to turn in the week's business and pick up their pay checks which requires 30 minutes; however, this procedure can be changed if necessary. She advised that they had resided in this area for only 10 months and did not wish to change the character of the neighborhood. The shop is two miles from their home and the Highway Patrol, when calling for wrecker service, expects immediate service while AAA permits only 30 minutes for the service to answer the call. Because of these short times, the truck must be kept at the home at night in order that Mr. Taulman will not be required to drive to the shop and pick up the wrecker and then answer the call for aid.

Protests:

John Miller, 3031 West 55th, submitted a petition (Exhibit "L-3") containing the signatures of 170 residents who oppose the subject application, feeling that the use would devalue their properties which range in value from $30,000 to $70,000. Mr. Miller pointed out that there are two points of access into the residential subdivision and a large number of children in the area. Mr. Miller advised that the wrecker service is a 24-hour service and that at times there is more than one truck parked at the residence, partially on the street, as shown in the photograph (Exhibit "L-4"). The trucks in the photograph have dew on the windshield which proves that they both have been parked for a period longer than 30 minutes. Mr. Willer also submitted photographs (Exhibit "L-5") of the homes directly across the street from the subject property, noting that the area residents are concerned with property values. Also, the applicant has a 60' to 70' radio antenna attached to the residential structure. Mr. Willer pointed out that the area residents having nothing personal against the applicant, but he has shown no regard for the neighbors, the FCC regulations and traffic laws.

Mrs. Taulman advised the Board that one employee quit and the truck was parked for two days at her residence. Also, the City has approved the radio antenna structure.

Bert Elam, 5303 South 32nd West Avenue, advised the Board that there have been times when three wreckers are parked at the residence. He advised he would like to help if there were some way, but he did not feel that the residential properties should be violated by the operation.

9449 (continued)

Board Action:
On MOTION of PURSER, the Board (3-0) denied application 9449 in an RS-3 District on the following described tract:

Lot 8,and the N/2 of Lot 9, Block 3, Mountain Manor Addition to the City of Tulsa, Oklahoma.

9451

Action Requested:
Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home in an RM-1 District located at 2220 North Darlington Place.

Presentation:
Charlie Potter requested permission to locate a mobile home on the subject property, advising that he is totally disabled and would build a residence if he were able. He advised that there were other mobile homes in the area.

Protests: None.

Board Action:
On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home for a period of one year, subject to the customary removal bond, in an RM-1 District on the following described tract:

The South 50' of Lot 3, Block 6, Industrial Addition to the City of Tulsa, Oklahoma.

9452

Action Requested:
Variance (Section 630 - Bulk and Area Requirements in the Office District - Under the Provisions of Section 1670) for a variance of the setback requirements from 10' to 3" from an R District; and an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) to remove the screening requirement where the purpose of the screening requirement cannot be achieved in an OM District located southeast of 4th Place and Lewis Avenue.

Presentation:
John Moyer, attorney representing Peoples State Bank, submitted the plot plan (Exhibit "M-1") advising that the tract is 74,000 square feet in size and the proposed structure contains 17,500 square feet of floor space. The structure is to be constructed of stone and brick with the parking area in front of the structure. The plot plan as presented indicated proper setbacks with the exception of the rear setback which is proposed to be 3". The alley was vacated in 1976 to prepare for this structure. A question was brought to the Board at a previous meeting as to whether or not the 20' alley could be utilized to determine setback. The Board determined that the alley could not be utilized

9452 (continued)

for setback purposes, therefore, the structure proposed will be 3" from the R District. Mr. Moyer submitted seven photographs (Exhibit "M-2") of the apartment complex and parking area in conjunction with the complex. Mr. Moyer requested a waiver of the screening on that portion containing the vault as there will not be sufficient room for a screening fence similar to those to be constructed on the remaining boundaries of the property abutting the R District. Mr. Moyer pointed out that the shape of the lot makes development difficult and bank structures are very well governed by many agencies and the plans have been approved by these agencies.

Protests: None.

Interested Party:

Eugene Coleoni, District 4 Supervisor of the Florance Park Sector, advised the Board that he was a proponent of the application in the interest of the Committee. He submitted a handout (Exhibit "M-3"), advising the Board that the application was not carried through due process and was not referred to the District 4 Planning Team for recommendation. Mr. Coleoni questioned whether or not an economic hardship was a basis for a variance of the screening and setback.

Board Member Jolly advised that the hardship is not one of economics as to the control of currency, the FDIC, etc., but a hardship as to the development of the property in an older area of the City and an odd-shaped lot.

Board Action:

On MOTION of JOLLY, the Board (3-0) granted a Variance (Section 630 - Bulk and Area Requirements in the Office District - Under the Provisions of Section 1670) for a variance of the setback requirements from 10' to 3" from an R District; and an Exception (Section 250.3 (d)- Modification of the Screening Wall or Fence Requirements) to remove the screening requirement where the purpose of the screening requirement cannot be achieved, per plot plan submitted, in an OM District on the following described tract:

Peoples State Bank Addition to the City of Tulsa, Oklahoma.

9453

Action Requested:

Minor Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1630) for a variance of the frontage requirements from 300' to 165' in an AG District to permit a lot-split (L-13949) located at 10858 North 97th East Ave.

Presentation:

Jim Day, the applicant, was not present.

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

Protests: None.

9453 (continued)

Board Action:

On MOTION of PURSER, the Board (3-0) granted a Minor Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1630) for a variance of the frontage requirements from 300' to 165' to permit a lot-split (L-13949) in an AG District on the following described tract:

N/2, N/2, NE/4, SE/4, SE/4, Section 12, Township 21 North, Range 13 East, Tulsa County, Oklahoma.

9454

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for a public park and to permit the construction of a 30' x 60' maintenance shop and relocation of a house to service O'Brien Park in an RS-2 District located north and east of 62nd Street North and Birmingham Avenue.

Presentation:

Max Wiens, Director of the Tulsa County Park Department, submitted the plot plan (Exhibit "N-1") and specifications (Exhibit "N-2") to the Board, advising that since the Board's approval of the maintenance shop in January, 1977, the County has purchased a 150' x 350' lot to the north and east of the Park and now desires to build the maintenance structure on this new property which is a much better location for the facility. The original sight was picked because it did not flood and was one of the few portions of the Park that could be developed. Mr. Wiens advised that the Park Department also plans to move the existing Park Ranger resident to the southern portion of the new lot with the maintenance building being located on the north portion of the lot. To the west are properties not owned by the County which contain residences. These properties hopefully will be acquired in the future for park purposes.

Upon questioning, Mr. Gardner advised that the structure to the west backs to the subject property and the Staff would suggest a shrub-type screening at this location. Also, the Board may wish to address itself to its previous approval of the maintenance structure on the O'Brien Park property.

Upon questioning by the Board, Mr. Wiens advised that nothing is to be constructed on the property under application as previously approved for the maintenance facility, noting he would have no objection to the Board's rescinding the maintenance portion of the previous approval.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential District - Section 1205 - Community Services, Cultural and Recreational Facilities) to permit the construction of a 30' x 60' maintenance shop and relocation of the Park Ranger's residence to service O'Brien Park, subject to the western property line being screened with shrubs; and rescinded its previous action of Case No. 9364 as pertains to the maintenance facility only, and not general park use, in an RS-2 District on the following described tract:

9454 (continued)

The North 393 3/4 feet of the West 166 feet of the E/2, W/2, SE/4, NW/4 of Section 5, Township 20 North, Range 13 East, Tulsa County, Oklahoma.

9455

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home in an RS-3 District located at 7201 South Jackson Avenue.

Presentation:

Elbert Kirk requested permission to locate a mobile home on the subject property in order that his widowed mother, who is ill, might be cared for by the family. He advised that the property is vacant at present and he resides 300' north of the subject tract.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home for a period of one year, subject to the customary removal bond, in an RS-3 District on the following described tract:

Beginning 429 feet South of the Northeast corner of the W/2, of the NE/4, of said Section 11; thence West 330 feet; thence South 363 feet; thence East 330 feet; thence North 363 feet to the point of beginning, all in Section 11, Township 18 North, Range 12 East, Tulsa County, Oklahoma.

9456

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; and Section 1219 - Hotel, Motel and Recreational Facilities) to use existing shopping center to include Use Units 12, 13, 14 and 19 in an IL District located at 4666 South Mingo Road.

Presentation:

Nat Henshaw requested permission to utilize uses contained within Use Units 12, 13, 14 and 19 in the existing shopping center.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved 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; and Section 1219 - Hotel, Motel and Recreational Facilities) to use existing

9456 (continued)

shopping center for uses included within Use Units 12, 13, 14 and 19 in an IL District on the following described tract:

Lot 2, Block 1, Regency Industrial District to the City of Tulsa, Oklahoma.

9457

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a ceramic shop in a residential garage in an RM-1 District located at 904 North Trenton Avenue.

Presentation:

Betty Cartwright advised the Board that her garage is of no benefit to herself or her husband, they are both disabled and cannot work in the public. She requested permission to operate a ceramic shop in the garage to supplement their income, advising she was aware of the regulations.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a ceramic shop in a residential garage as presented in an RM-1 District on the following described tract:

Lot 6, Block 4, Crutchfield Addition to the City of Tulsa, Okla.

9458

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's nursery in an RS-3 District located at 285 East 51st Place North.

Presentation:

Nineta Smith requested permission to operate a children's nursery in the existing structure, advising that the nursery hours would be 7 a.m. to 6 p.m., Monday through Friday. She also noted she would supply transportation for children and those parents picking up and delivering their children would utilize the existing single-car driveway. Mrs. Smith submitted a petition (Exhibit "O-1") containing the signatures of 20 area residents in favor of the request.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to

9458 (continued)

operate a children's nursery, as presented, in an RS-3 District on the following described tract:

Lot 4, Block 46, Valley View Acres Second Addition to the City of Tulsa, Oklahoma.

9459

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 in an RS-3 District located at 2507 East 29th Place North.

Presentation:

Rev. Leon Edd, representing Miracle Community Baptist Church, advised the Board that the existing Church was nonconforming and in 1968 a variance was granted for a setback modification to enclose the steps. At that time there was no requirement that an exception be required for church use of the property as there is now.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to use property for church use in an RS-3 District on the following described tract:

Lots 13 and 14, Block 5, Amos T. Hall Addition to the City of Tulsa, Oklahoma.

9460

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the side yard requirements from 10' to 5' to permit 5' on each side in an RD District located on 181st East Avenue, between 2nd Street and 4th Street.

Presentation:

W. C. Friman, the applicant, was not present.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (3-0) continued application 9460 to April 21, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9467

Action Requested:

Minor Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1630) for a variance of the frontage and area requirements to permit a lot-split (L-13959) in an AG District located north of 146th Street North and Trenton Avenue.

Presentation:

Donald Butler, the applicant, was not present.

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

Protests: None.

Board Action:

On MOTION of PURSER, the Board (3-0) granted a Minor Variance (Section 330 - Bulk and Area Requirements in the Agriculture District - Under the Provisions of Section 1630) for a variance of the frontage and area requirements to permit a lot-split (L-13959) in an AG District on the following described tract:

The W/2, SE/4, SW/4 of Section 19, Township 22 North, Range 13 East, Tulsa County, Oklahoma.

9475

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the side yard requirements to permit a residence to be built 4" into the side yard in an RS-2 District located at the northwest corner of 26th Street and Delaware Place.

Presentation:

Gerald Pace, the applicant, was not present.

The Staff advised of the request and submitted the plot plan (Exhibit "P-1").

Protests: None.

Board Action:

On MOTION of PURSER, the Board (3-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the side yard requirements to permit a residence to be built 4" into the side yard, per plot plan, in an RS-2 District on the following described tract:

The East 90 feet of the South 104.6 feet of Lot 6, Block 8, Bryn-Mawr Addition to the City of Tulsa, Oklahoma.

ADDITIONAL ITEMS:

Determination
7209

This is a request (Exhibit "Q-1") from Betty Overton, Assistant Building Inspector, for a determination of the Board's previous approval (to permit using the property as a tennis court and swimming pool) as to whether or not the proposed cabana structure is permitted as a part of the previous approval.

Joseph Coleman, the applicant, was present and advised the Board that the cabana is 20' x 20', open sided, and will be constructed in conjunction with the pool and tennis court.

Board Member Jolly, in Board discussion, felt that a cabana as presented is customary and accessory to the swimming pool and tennis courts. There being no objections,

On MOTION of JOLLY, the Board (3-0) determined the cabana as presented to be customary and accessory to the Board's previous approval of application 7209.

Interpretation

This is a request (Exhibit "R-1") from Paul Jenkins, Zoning Inspector, that an interpretation be made as to what use unit would include a radio active service company. The operation consists of a large building used for business offices, truck washing, storage of radio active material and all related activities connected with a service company doing industrial radio active work. Several trucks marked "radio active" are parked on the property. Mr. Jenkins questioned whether the use would be included within Use Unit 15, Other Trades and Services, or within Use Unit 25, Light Manufacturing and Industrial Uses.

On MOTION of PURSER, the Board (3-0) found the use, as presented, to be classified as Use Unit 25, Light Manufacturing and Industrial Uses.

Determination

Paul Jenkins, Zoning Inspector, requested that the Board make a determination as to whether or not a swimming pool is permitted within an OL District. The property in question is zoned OL, contains a residence, and a permit is requested to place a swimming pool for the family's children on the property. The property was zoned residential at one time, the property was rezoned and the residence maintained, and now the owners are requesting the permit. He cited Section 240 which permits swimming pools but does not specify any zoning classifications.

In Board discussion, the Staff felt that the use would be permitted by right. David Young, representing the property owner, advised the pool was to be utilized for the children.

Upon questioning, David Pauling, Assistant City Attorney, could foresee no problem with permitting the pool by right.

On MOTION of JOLLY, the Board (3-0) determined that the swimming pool for the residence would be permitted by right in the OL District.

Principal Use Variances

In discussion it was the feeling of the Board that the Staff's memorandum dated March 14, 1977, regarding principal use variances, should be made available to those attorneys who appear before the Board and that they be notified that the Board will discuss the question of principal use variances for input purposes and clarification at its meeting of April 21, 1977.

Special Item

Board Member Jolly, with regard to the withdrawal of the application for the Horace Mann Community Treatment Center by the State Department of Corrections, advised he would like the Board to again state to Dr. Inbody and Jerry Maddox that the Board takes their thoughts and expressions as presented in communications to the Board at face value. Mr. Jolly felt that the Board should address a letter to Dr. Inbody and Mr. Maddox urging their continued cooperation, even in an information manner, in presenting what is proposed for the Center to give the community a clear understanding of what will be done with the Center.

Mr. Jolly presented a draft letter for the Board's consideration, after which David Pauling, Assistant City Attorney, advised that the City Commission had granted approval for the Center and the State Department was not required to appear before the Board nor answer to conditions that the Board might stipulate upon granting an approval of the application. The plans presented to the City were for review, not for approval.

Mr. Jolly advised it was his feeling that a letter should be drafted on behalf of the Board and presented to Dr. Inbody and Mr. Maddox for the information of the Board and the residents in the community in order that plans for the Center might be made public information. He stated he would revise his communication somewhat and resubmit it to the Board.

There being no further business, the Chair declared the meeting adjourned at 6:50 p.m.

Date of Approval May 5, 1977

D. Guerrero

Chairman

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