

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 235
Thursday, May 5, 1977, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT

Blessing
Guerrero, Chairman
Jolly
Purser, Mrs.
Smith

STAFF PRESENT

Alberty
Edwards
Etter, Mrs.
Jones

OTHERS PRESENT

Jenkins, Building
Inspector's Office
Pauling, Legal Dept.

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

MINUTES

On MOTION of PURSER, the Board (5-0) approved the Minutes of April 7, 1977 (No. 233).

UNFINISHED BUSINESS

8461

Action Requested:

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

Presentation:

Tom Birmingham, attorney representing the applicant, advised the Board that his client has three trucks utilized in his business that he parks on his property. At one time Mr. Dunn was relocated to the subject property because of Urban Renewal and was under the impression that if there were no objections from area residents that his business could be moved to the new property. Mr. Birmingham submitted a petition (Exhibit "A-1") containing the signatures of 25 area residents in favor of the application, a plan (Exhibit "A-2") showing the location of Mr. Dunn's home in relation to the alley and Mr. Dunn's rental property, and two photographs (Exhibit "A-3") of the subject property and parking area. Mr. Birmingham pointed out that Mr. Dunn has provided a painted wooden fence on the property in order that the trucks cannot be seen from 24th Street, noting that the alley which dead ends at Mr. Dunn's property has been surfaced by Mr. Dunn as it is used for access purposes to that portion of Mr. Dunn's property that contains the trucks.

Because of the lack of protests and the hardship created by Mr. Dunn having to be relocated from his previous location, Mr. Birmingham requested a variance to run with the present property owner only to

8461 (continued)

permit using the subject property for parking as it exists, with adequate screening and servicing having been provided. Upon questioning, Mr. Birmingham advised that the trucks are 2½-ton refuse trucks.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (5-0) upheld the decision of the Building Inspector and granted a Variance (Section 1670.1 - Variances - General) to permit off-street parking as it presently exists for the present property owner only, limiting the use to the present number of vehicles (3), and subject to the applicant's maintaining the existing fence at all times, as amended by SMITH, in an RM-1 District on the following described tract:

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

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:

Richard Morgan, the applicant, was not present.

The Staff advised that the Board had approved an exception subject to the rezoning of the property and had continued the variance portion of the application pending the outcome of the rezoning hearing. The applicant did receive rezoning of the property; therefore, the subject application can be stricken from the Board's agenda as it is no longer necessary.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board (5-0) declared application 9402 stricken from the agenda.

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.

9410 (continued)

Mr. Edwards advised the Board that he had spoken with the applicant and was not sure that she understood that approval was needed and that she should be present. He noted that when the application was filed, the applicant thought that she was receiving a permit to locate the mobile home on the property; therefore, the mobile home is more than likely in place without a permit. Upon questioning, Mr. Edwards did not feel that locating a mobile home in this area of the City would create problems.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) 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-1 District on the following described tract:

Lot 1, Block 1, Buford Colony Second Addition, Tulsa County, Oklahoma.

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 Provision 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.

The Staff advised that the property is in the process of being plat-
ted at this time and that there are drainage problems that are being
worked out; therefore, a continuance of the application is in order.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (5-0) continued application 9421 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

Action Requested:

Variance (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1227 - Heavy Manufacturing and Industry) to allow the applicant to continue an auto salvage yard operation in an AG District located at 1715 East 86th Street North.

Presentation:

Patrick J. Malloy, III, was not present; however, Mr. Jones advised that the applicant had requested in writing (Exhibit "B-1") that the subject application be continued to May 19, 1977 because of a conflict in his schedule this date. Further, Mr. Jones advised that the applicant, per the Board's previous direction, had been mailed a registered letter stating that the application would be heard this date with or without his presence. The protestants present this date have been to the Board on this same application on two previous occasions.

Upon questioning regarding not granting an additional continuance of the application, David Pauling, Assistant City Attorney, did not feel that the Board could take affirmative action without a presentation from the applicant. He advised that the Board had the authority to either again continue the application or dismiss the application on the basis that the applicant was again not present. He noted the Board's policy that there must be a six month's lapse in time before the application can be refiled.

Protests:

Dr. Grady Snuggs, 1748 North Knoxville, questioned the refileing of the application and Mr. Pauling again advised that the application could not be refiled for a period of six months and that it would be a new application with notice again being required of the application by the applicant.

Board Action:

On MOTION of JOLLY, the Board (5-0) dismissed application 9436 on the basis that the applicant once again did not appear for the hearing.

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a machine shop; 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 a residence to continue operation in an RS-2 District located at 1217 South 129th East Avenue.

Presentation:

Jim Elder, attorney representing W. B. Horner, submitted a book of photographs (Exhibit "C-1") and a map (Exhibit "C-2") denoting the location of the subject property which is comprised of 2½ large lots in the RS-2 District totalling 2.75 acres, having been purchased in August, 1976. Mr. Elder reviewed the photographs of the subject and surrounding properties for the Board's information. Also, Mr. Elder

narrated a slide presentation of the subject property, the property to the west which is sparsely developed, the property to the east which is used for agricultural purposes, the property to the south which contains a tractor mowing service, and the property to the north which contains a kennel operation. The slides also included pictures of the overall subject property, the 30' x 50' concrete block structure used for the operation of the machine, pointing out that from the pictures provided there does not appear to be a machine shop in operation.

With regard to the machine shop operation itself, Mr. Elder advised that it creates no noise problems, that all tools are electric, and that there is no steam or gas-fired equipment utilized in the operation that might cause pollution problems. With respect to noise, Mr. Elder advised that the loudest piece of equipment used in the operation makes a noise no louder than the average household vacuum cleaner. The structure is a permanent structure and is air conditioned; therefore, the doors are closed and there is no work done outside the structure.

Mr. Elder advised that the neighbors had been approached after Mr. Horner received his notice from the Building Inspector's Office and the only complaint was that filed with the Inspector's Office. Because of the area, the neighbors are in many instances blocks apart. The nearest RS-3 is approximately three blocks from the subject property. Further, Mr. Elder noted the number of commercial operations in existence to the north of the subject property and those along 11th Street.

Mr. Elder presented samples of the type of product that is manufactured in the machine shop, pointing out that there is a total of four employees in the shop including Mr. Horner. This is a wholesale business rather than a retail business and there are no large trucks connected with the operation. Upon questioning by the Board and in the interest of controlling the operation, Mr. Elder advised that his client would accept a condition that the use not be expanded from its existing size and that no other buildings be placed on the property for use in conjunction with the machine shop operation.

Upon questioning by the Board, Mr. Jones advised that the applicant had not been supplied a copy of the Rules of Procedure for granting use variances as they were not yet prepared when the applicant filed his application. At this point, Mr. Elder was presented a copy of the rules for his information and use in his presentation.

In reviewing the rules of procedure, Mr. Elder advised that the hardship concerned with this application would be that the structure is under lease and that there are three other employees besides Mr. Horner that would be without jobs if the operation were ordered to cease. He pointed out that the property had not changed in appearance with the exception of a portable building which has been recently erected on the property.

Mr. Alberty advised that the use in existence is a CC or II type use and, if approved, would be located south of the defined zoning line in which other commercial uses are located. He felt that any use other than residential would be inappropriate in this area, and suggested that the applicant might wish to attempt to obtain a nonconforming use status as opposed to a principal use variance. Also, Mr. Pauling noted that economics is not considered a basis for hardship.

Mr. Elder felt that the use would be appropriate because of the activities being undertaken within an enclosed structure and behind closed doors, with no noise, smoke or other such disturbance being involved, and because the operation is a clean operation.

Protests:

Harvey Parks, 1201 South 131st East Avenue, submitted a protest petition (Exhibit "C-3") containing the signatures of 16 area residents opposed to the subject application. Mr. Parks noted that the structure being utilized is larger than permitted by the Code without special approval. He advised that he had seen the shop when he was investigating the portable building that was being moved onto the property. He advised that the area is on septic tanks, that there is at least \$100,000 worth of equipment in the building which has not been registered with the County Assessor's Office, and that the shop is in operation in the evening hours with doors open. He pointed out that a body shop was once operated from the structure and that there are presently old cars and trucks parked on the north side of the property. Because this is a residential area, Mr. Parks requested that the application be denied as the residents do not want South 129th East Avenue stripped as 11th Street has been.

Mr. Elder advised, in his final statements, that there was a body shop operation located in the structure but that the lease was terminated a year and a half prior to the existing lease. Also, he advised that there are no automobiles parked on the north side of the property and that the operation is a quiet and clean operation.

Board Member Jolly advised Mr. Elder that the Board could not grant a use variance without proof of hardship, which he felt that applicant had not yet proven. He felt that the applicant should proceed with his presentation according to the rules of procedure, and if he did not wish to do so the Board could not consider the application. Further, Board Member Jolly noted that the Board could consider a continuance of the application in order that Mr. Elder might prepare himself with regard to the rules of procedure if he so desired, otherwise he felt that the application should be denied for lack of hardship. Board Member Purser agreed.

Under the circumstances, Mr. Elder advised that he preferred that a decision be made this date.

Board Action:

On MOTION of JOLLY, the Board (5-0) denied application 9439 in an RS-2 District on the following described tract:

North 91.5 feet of Lot 6, all of Lots 7 and 8, Block 4,
Romoland Addition to the City of Tulsa, Oklahoma.

9465

Action Requested:

Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) for permission to operate a small machine shop in an RS-3 District located at 507 South 39th West Avenue.

Presentation:

The Staff noted that at the previous hearing it was found that there were three lots involved in the application -- two lots containing the residence and one lot containing the garage which houses the machine shop. It was determined at that time that the use could not be considered as a home occupation because of the fact that the use was not located on the lot with the residence. The Board continued the application in order that the applicant might readvertise the case as a variance so that the Board might make a decision on the applicant's request.

Darrell Rollins advised the Board once again that the machine shop is operated in the garage structure on the lot abutting the property containing his residence. He advised that he no longer has an outside employee, but that the helper is a part of his family.

Board Member Smith pointed out that the applicant had been assured by the Board at its previous meeting that the application would be considered favorably if only it had been advertised as a variance and the applicant has since that time readvertised the application.

David Pauling, Assistant City Attorney, pointed out that if those Board Members present this date, who were not present at the previous hearing for the initial presentation, feel it necessary, they can abstain from the voting at this time.

Protests: None present.

The Staff submitted a letter of protest (Exhibit "D-1") from the District 10 Planning Team, requesting that the Board grant the application for only one year, if they support the request. Also, the Planning Team encouraged the applicant to move his machine shop to a more suitable location than the residential area, pointing out that the members of the Planning Team would be glad to assist in every way possible should he desire to move and need aid in obtaining a small business loan in order that the shop can be moved.

Board Action:

On MOTION of SMITH, the Board (3-0-2, with Jolly and Purser "abstaining") upheld the decision of the Building Inspector and granted a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to operate a small machine shop, subject to the requirements of a home occupation with the exception of the use being required to be located on the lot containing the residence, in an RS-3 District on the following described property:

5.5.77:235(7)

Lot 3, Block 5, Park View Place Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplexes) to erect three duplexes; a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) to build across a lot line; and a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the lot area requirements for a duplex from 9,000 square feet to 8,556 square feet in an RS-3 District located northeast of 71st Street and Indianapolis Avenue.

Presentation:

Reg McClish submitted the plot plan (Exhibit "D-1"), advising that he was requesting a 400' variance of the lot area requirements in order that the duplexes might be constructed as proposed. He noted the elevations shown on the plot plan, pointing out that from the northwest corner of the property to the rear of the property the decrease in elevation is 1' 9", drainage being the major point of issue at the previous hearing of the application.

Alberty advised that the Staff's concern with the application was the fact that the property was originally platted for two duplex structures and the applicant is requesting a third structure on the two lots which would increase runoff. Should the Board be in support of the application, Mr. Alberty suggested that approval be granted subject to the approval of the applicant's drainage plans by the City Engineer. Also, Mr. Alberty noted that the Board should also concern itself with the proposed quality of the structures as compared to the existing development.

Mr. McClish advised the Board that he would meet all the minimum requirements, with plans being submitted for the building permit. Mr. McClish felt that the three two-story structures would cover less area than two large duplex structures, noting that the quality would be a higher quality than the existing development in the area.

Protests:

George Thompson, attorney representing property owners to the east of the subject property and property owners within the duplex subdivision, noted the fact that the application had been continued this date in order that more than three Board Members might be present to discuss the application as one of the Members was unable to vote because of his relationship to the engineer hired to study the drainage.

Mr. Thompson advised that he had spoken with Mr. McClish's engineer who stated that there is more of a problem than the applicant had advised, but that the drainage problems could be handled. Mr. Thompson felt that the application should be continued until such time as the applicant has provided complete drainage plans for the Board's review.

9466 (continued)

Mr. McClish advised the Board that he had spoken with his engineer on Monday of this week, but was unable to get drainage plans for the hearing this date. He felt that the elevations were more important at this point than the drainage plans. Upon questioning by the Board with regard to hardship, Mr. McClish noted that the property could be better utilized with three two-story structures than two larger duplex structures because of the cost of the land involved. He pointed out that there is appropriate land contained within the property for the development and any work that would be required to handle the drainage.

Board Action:

PURSER moved to continue application 9466 to June 2, 1977 in order that the drainage plans could be submitted to the City Engineer, after which Mr. Thompson advised that he would be out of town the first half of June. Also with regard to a statement made by Mr. McClish that possibly the protestants should present drainage plans because of their concerns of drainage, Mr. Thompson noted that the protestants are not prepared to present drainage plans for the Board's review. The Board then advised that the burden of presenting drainage plans is on the applicant, in addition to advising that a hardship must be demonstrated in order for the Board to consider the variance requested. Mr. Thompson then stated he did not feel that there was a hardship with regard to the number of structures being requested and the variance required to construct three structures.

On MOTION of PURSER, the Board (4-0-1, with Smith "abstaining") continued application 9466 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, in order that the applicant would have sufficient time to submit drainage plans to the City Engineer and City Hydrologist for a recommendation to the Board concerning drainage.

9469

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 4372 West 26th Street.

Presentation:

Donna Cockran, the applicant, was not present.

The Staff advised that a registered letter had been sent the applicant notifying that a determination of the application would be made this date with or without her presence.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) dismissed application 9469 as the applicant was not present this date.

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 25' to 15' on corner lots in an RS-3 District located on the east side of 92nd East Avenue, between 58th and 61st Streets.

Presentation:

Wylie Bryant, III requested a variance of the setback from 25' to 15' on the west side of Lot 1, Block 6; the west side of Lots 1 and 2, Block 7; the north side of Lot 1, Block 8; the south side of Lot 7, Block 8; and the west side of Lot 1, Block 10, because they are corner lots and the setbacks required are greater than those required of interior lots.

Mr. Alberty pointed out that Lot 1, Block 10 is located within the moratorium and approval of that lot should be subject to its removal from the moratorium. Also, should the Board be inclined to support the request, Mr. Alberty felt the Board should be concerned with adequate setback of the garages so as not to project into the street right-of-way.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (5-0) granted a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from 25' to 15' on corner lots, as presented, subject to the garages being a minimum 25' from the property line and subject to Lot 1, Block 10 being removed from the moratorium prior to issuance of the building permit on that lot, in an RS-3 District on the following described tract:

Lot 1, Block 6; Lots 1 and 2, Block 7; Lots 1 and 7, Block 8; Lot 1, Block 10; all in Woodland View Park IV Addition to the City of Tulsa, Oklahoma.

NEW APPLICATIONS:Action Requested:

Variance (Section 620.2 (d) - Accessory Use Conditions in the Office District - Business Signs - Under the Provisions of Section 1670) to permit a pole sign 17' high, 4' x 12' in size on top and 4' x 5' in size on the bottom in an O1 District located at 5514 South Memorial Drive.

Presentation:

Max Westbrook, representing John Hausam Realtors, submitted his plan (Exhibit "F-1"), advising that Mr. Hausam's standard sign is larger than what is proposed for the subject sign which is 17' high, 4' x 12'

in size at the top and 3' x 5' in size at the bottom. Mr. Westbrook submitted three photographs (Exhibit "F-2")--one of Mr. Hausam's standard sign size, one from the subject property looking north on Memorial and one from the subject property looking south along Memorial. In presenting the photographs he advised of the sizes of the signs which are located on the Memorial frontage, pointing out that the proposed sign will be located directly in front of the structure and cannot be seen by the property owners to the west of the office park area. Because the property is located on the corner, the Code would permit two 4' x 8' signs, one on each street frontage; however, Mr. Hausam is proposing only one sign on the Memorial frontage, that being the sign provided on the plan submitted. The variance is required in order that the logo can be read without difficulty on Memorial which is a heavily travelled street. The proposed sign is a total of 63 square feet in size, is not as high as permitted, and smaller overall than two signs which are permitted by right by the Code.

Protests:

Tom Deal, 5532 South 78th East Avenue, attorney and resident of the area representing other property owners abutting the office park, advised the Board that the signs that have been erected for the office park affect the property values of the homes on East 55th Street, East 57th Street and South 79th East Avenue. He felt that the subject request, if approved, would further encroach the office use into the neighborhood and further devalue residential properties as several of the residents would be able to view the sign from their properties. He noted the number of signs located in the area including the Red Carpet sign which he felt did not meet Code requirements, and requested denial of the subject application. Upon questioning by the Board, Mr. Deal advised that he would rather have two smaller signs than the one sign proposed for the property.

David Corral, 2638 South 101st East Avenue, advised the Board that he has 50% interest in the property to the north and pointed out that the Red Carpet sign is 4' x 8' and should be no more than 20' in height. He felt that the larger sign proposed would be detrimental to the residential area as well as the remainder of the office park. He pointed out that his office chose to accept two smaller signs rather than one larger sign as permitted by the Code.

Benjamin Whitehill, 5810 South 80th East Avenue, advised the Board that he owns Lot 7, which is abutting the southwestern boundary of the property, and opposed any change in the Ordinance requirements.

Mrs. James Friesner, 7812 East 55th Street, requested that the Red Carpet sign be investigated as she did not feel that it met the requirements of the Zoning Code. She advised that her neighbor has had her home on the market for sale for six months and has been told by the real estate agent and prospective buyers that the signs have devalued the property. Approval of the subject application would create a further devaluation of the homes in the area.

Mrs. Robert Crow, 5525 South 78th East Avenue, advised the Board that she backs to the subject property and felt that she would be able to see the proposed sign even if it were located in the center of the property frontage.

9474 (continued)

Mr. Westbrook advised the Board that the proposed sign cannot be seen from the residential neighborhood, noting that the residents knew when they purchased their homes that the property fronting Memorial was not residential property. Further, he pointed out that he had erected a number of the signs for Red Carpet which were 5' x 10' in size.

Board Action:

On MOTION of JOLLY, the Board (5-0) denied application 9474 in an OL District on the following described tract: Lot 8, Block 1, Memorial Drive Office Park Addition to the City of Tulsa, Oklahoma.

Board Member Smith requested that the Building Inspector's Office investigate all the signs in this office park to determine whether or not they meet the requirements of the Code.

9476

Action Requested:

Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements from an abutting O District from 75' to 0' to permit the erection of a building in an IM and OL District located at 13521 East 11th Street.

Presentation:

Tom Birmingham, attorney representing Concrete Industries of Tulsa, submitted the plot plan (Exhibit "G-1") requesting a variance of the setback requirements from 75' to 0' on the east as both properties are owned by Concrete Industries and pointing out that the structure meets all other requirements.

Mr. Alberty reviewed the zoning history of the subject property, noting that the IM, IL, OL and RS-2 zoned properties are all owned by Concrete Industries. A rezoning application for industrial zoning on the entire property was denied on the basis that it would be an encroachment into the residential areas to the north and east of the applicant's ownership.

Upon questioning with regard to a tie contract, Mr. Birmingham advised that the property is described by metes and bounds and not platted. Further, he did not feel that there would be a problem with accepting a tie contract between the OL and IM properties in order that neither could be sold on an individual basis. David Pauling, Assistant City Attorney, pointed out that a tie contract would serve no purpose with the property being under one ownership rather than being separate platted lots.

In the Board and Staff discussion of possible future lot-splits, Mr. Birmingham advised that it would be difficult to split the lots on the zoning line and also he could not conceive anyone wanting to purchase the OL property for office purposes because of the OL abutting the batch plant.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) granted a Variance (Section 930 - Bulk and Area Requirements in the Industrial District - Under the Provisions of Section 1670) for a variance of the setback requirements from an abutting O District from 75' to 0' to permit the erection of a building in an IM and OL District on the following described tract:

The S/2, W/2, E/2, SE/4, SW/4 of Section 4, Township 19 North, Range 14 East, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to operate a car wash in a CS and FD District located at 9601 East 21st Street.

Presentation:

W. O. Smith submitted a plot plan (Exhibit "H-1") and a photograph of the existing service station structure, requesting permission to construct a car wash facility on the property. He noted that when he purchased the property from Sun Oil Company in November, 1976 the property was not within the moratorium; however, when he submitted his plans for a permit in late March, 1977, the permit was denied a week later because the property was then within the moratorium.

Mr. Alberty advised that the Staff had no problems with the use as it would be compatible with the area; however, use of the property will require an exception to the moratorium and also an exception from the Board prior to building permits being issued as the property is supplementally zoned FD which would prohibit the construction of a building or adding onto an existing structure without the exception.

Because of the type of use being requested of the property and the fact that no more than what is already existing would be utilized, Board Member Jolly questioned what would be the applicant's chances of obtaining an exception to the moratorium to make use of the existing concrete. Mr. Alberty did not feel that the applicant would be able to obtain a permit for the construction of a new building, but if the car wash would utilize the existing building or be located on existing paved areas the request may have merit.

For clarification, Mr. Smith advised the Board that the property was outside the moratorium when it was purchased in November, 1976 as the contract was made contingent upon the property being outside the moratorium and the City maps were checked to determine the property's location in relation to the moratorium. Also, the City advised that he could obtain a car wash permit without any problem. A permit was sought 120 days later and one week after the plans were submitted to the Hydrologist the property was placed in the moratorium for a period of 90 days. He pointed out that all the property surrounding the subject property is within the moratorium but that he would not have purchased the property if it had been determined that the property was located within the FD.

Mr. Alberty advised that if the property were located within the FD an exception would be required by the Board in order that the development could take place within the FD District. In reviewing the notice, it was noted that an exception of Section 1030 could be included within the applicant's notice; however, it was felt that procedurally the applicant should get an exception to the moratorium prior to the exception being considered to permit the use within the FD District. Mr. Pauling suggested, if agreeable to the applicant, that the application be continued for a recommendation from the City Engineer.

Mr. Smith advised that on March 31 he submitted plans to the City Engineer and was advised that the property was at the time outside the moratorium. He noted that it was his understanding that it would require an exception from the Board to permit the car wash, then a hearing before the City Commission would be required to obtain an exception to the moratorium, after which he felt he would again be before the Board for consideration of permitting the use in the FD District.

Board Action:

On MOTION of JOLLY, the Board (5-0) approved an Exception (Section 710-Principal Uses Permitted in the Commercial District - Section 1217 - Automotive and Allied Activities) to permit a car wash in a CS District on the following described tract:

Lot 1, Mingo Valley Subdivision, Tulsa County, Oklahoma.

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 care center in an RM-1 District located at 1102 North Harvard Avenue.

Presentation:

Otis Towers requested permission to operate a day care center on the subject property, advising that he operates a day care center at the present time but would like to establish a second center. He pointed out that he had purchased the subject property for the sole purpose of operating a center in the structure. There is a drive on Latimer that will be utilized with existing parking on the property for five or six vehicles, noting that this area could be expanded if required.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) 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 care center, subject to no signs being permitted, in an RM-1 District on the following described tract:

South 69.5 feet of the East 155 feet of Lot 3, Tulsa Garden Acres Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.3 - Duplexes) to erect seven duplexes; and a Variance (Section 440.3 (c) - Special Exception Uses in Residential Districts - Requirements - Under the Provisions of Section 1670) for a variance of the frontage requirements from 75' to 73.85' and 75' to 15' for duplexes in an RS-3 District located north and east of 61st Street and South 89th East Avenue.

Presentation:

Alan English, representing Carter Corporation, advised that the property under application is 2.2 acres in size and that the properties on either side are under separate ownership. Mr. English requested permission to locate seven duplex structures on the property, noting that the lots meet and exceed the requirements of the Ordinance with the exception of the frontage due to the configuration of the property. The previous approval of five structures is being expanded to a request for seven structures in order that the property can be better utilized.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (5-0) approved an Exception (Section 410- Principal Uses Permitted in Residential Districts - Section 440.3 - Duplexes) to erect seven duplexes; and a Variance (Section 440.3 (c) - Special Exception Uses in Residential Districts - Requirements - Under the Provisions of Section 1670) for a variance of the frontage requirements from 75' to 73.85' and 75' to 15' for duplexes in an RS-3 District on the following described tract:

Block 1, Woodland View Park Court Addition to the City of Tulsa, Oklahoma.

Action Requested:

Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1213 - Convenience Goods and Services) to permit the continued operation of a grocery store; and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements on the north, south and west property lines to permit an addition to the existing grocery store in an IL District located at 2625 West 40th Place.

Presentation:

Grady Ballard submitted the plot plan (Exhibit "I-1") and requested permission to make an addition to the existing structure per the plan, noting that the store had been in operation for 28 years.

The Staff advised that when the structure was built the store was permitted by right in the IL District.

9483 (continued)

Mr. Ballard advised that he was planning a 30' addition on the north-eastern end of the structure and an addition as close to the property line as can be permitted on the northwestern boundary of the property because of the expressway access road being located at this point. Mr. Ballard noted that he had spoken with the State and was advised that there are no setback requirements from the State property therefore the structure could be built abutting the access road if the City approved it in that manner.

With regard to additional parking, Mr. Ballard noted on the plot plan that the property to the northeast of the structure is under his ownership and would be utilized for additional parking purposes.

Protests: None.

Board Action:

On MOTION of BLESSING, the Board (5-0) approved an Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1213 - Convenience Goods and Services) to permit the continued operation of a grocery store; and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements on the north, south and west property lines to permit an addition to the existing grocery store, per plot plan, in an IL District on the following described tract:

Block 44, Red Fork Addition to the City of Tulsa, Oklahoma.

9484

Action Requested:

Exception (Section 410 - Principal Uses Permitted in the Residential District) to permit the erection of a duplex; and a Variance (Section 440.3 - Special Exception Uses in Residential Districts - Requirements - Under the Provisions of Section 1670) for a waiver of the frontage requirements from 75' to 60' and square footage requirements from 9,000 square feet to 8,400 square feet in an RS-3 District located at 4126 South Norfolk Avenue.

Presentation:

Arthur Nielsen advised the Board that he was the new owner of the subject property and had been assured by the real estate agent and previous owner that the property could be utilized for duplex use based on the Board's previous approval which has since expired. The waiver of the frontage requirements and square footage requirements is requested due to the nonconforming lot.

Protests:

Jack McGuire, 4128 South Norfolk, submitted a protest petition (Exhibit "J-1") containing the signatures of 19 area residents opposed to the application, noting it was his understanding that the Board had denied the request in the past.

9484 (continued)

A. M. McMekin, 4143 South Norfolk Avenue, advised that the majority of the residents have lived in this area for 40 years. He felt that the duplex proposed would devalue residential property values as there are no other duplexes in the neighborhood. Also, he felt that the hardship would be placed on the residents rather than the applicant.

Terry Silva, 4133 South Norfolk, advised that he was opposed to the application because he did not feel that the 60' x 145' lot was large enough for the duplex structure without crowding the lot with the building and parking which would then not be in conformance with the remaining development in the area.

Mr. Nielsen advised of the numerous duplexes on Owasso, north of 41st Street and to the south of the block in which the property is located. He felt that a duplex would be compatible with the existing development even though his plans have not yet been drawn. With regard to the size of the lot and the capability of locating a duplex on the lot, Mr. Nielsen advised that his builder also constructed a duplex on a 60' x 140' lot (on 36th Street) behind the Safeway store that is of good quality, noting that he also could do the same for the subject property.

Board Action:

On MOTION of PURSER, the Board (3-2, with Jolly and Smith voting "nay") denied application 9484, being concerned with a duplex being located in the middle of a single-family block in an RS-3 District on the following described tract:

Lot 16, Block 2, Alta Dena Place Addition to the City of Tulsa, Oklahoma.

9485

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to operate a cabinet shop in a CS District located at 6923 South Yorktown Avenue.

Presentation:

Roy Pecaut submitted a plot plan (Exhibit "K-1") to the Board requesting permission to operate a cabinet shop in the proposed 12,960 square foot structure, with 6,480 square feet being designated for the cabinet shop in the eastern portion of the structure. Seven employees will be operating the shop with 95% of the business being wholesale in nature at present; however, it is hoped that 15% of the business will become retail in the future. With regard to the surrounding area, Mr. Pecaut advised of the zoning pattern in the area which includes RM-1, RM-2 and CS zoning.

Mr. Alberty pointed out that the Staff concerns would include the potential noise factor involved, whether or not the work will be undertaken inside the structure, and whether or not the structure will be insulated against noise. He noted that the Board, if they should support the application, could impose conditions that would insure that the development would be compatible with the residential area. Also, the Staff would be concerned that the ingress and egress would not be adjacent to the multifamily zoned property.

Mr. Pecaut advised that a dust collector system would be installed inside the structure because of the proximity of the property in relation to this area of the City. Also, a 6½" concrete wall is proposed for insulation purposes against noise.

With regard to conversation concerning whether or not Never Fail, Jr., owner of the multifamily property to the east, had received notice of the hearing, Mr. Pecaut advised that Mr. Fail was not the owner of the property at the time the notice was sent; however, he did not feel that it would be a problem to obtain a letter of support from Mr. Fail as he is aware of the use being proposed for the property.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (5-0) approved an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to operate a cabinet shop per plot plan submitted, subject to the applicant's receiving a letter of approval from Never Fail, Jr., in a CS District on the following described tract:

The South 135' of the West 228.71' of Lot 2, Block 2, Lewis Village Addition to the City of Tulsa, Oklahoma.

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements on the west to permit an alignment with an existing building; and an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) to remove the screening requirements on the south and west where the purpose of the screening cannot be achieved in a CS District located at 6010 East Apache Street.

Presentation:

Hugh Parsons submitted the plot plan (Exhibit "L-1") requesting a variance of the setback on the west in order that the proposed additional structure might align with the existing structure. Also, he requested that the screening requirement on the south and west be permitted to be removed as he owns the property abutting those zoning lines and did not feel that he should have to screen his operation from property that he owns.

David Pauling, Assistant City Attorney, pointed out that it might be appropriate to grant an extension of time for the requirement rather than removing the requirement altogether.

Mr. Parsons felt that the fence would be an eyesore for the area, noting that he would provide it if the Board so required. Also, he pointed out that the new structure would be located on Lot 2, while the residence is now constructed over the lot line between Lots 1 and 2.

Protests: None.

9488 (continued)

Board Action:

On MOTION of SMITH, the Board (5-0) granted a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements on the west to permit alignment with the existing building; and granted an Exception (Section 250.3 (c) - Modification of the Screening Wall or Fence Requirements) to permit a five year extension of time for the erection of the screening fence on the west and south boundaries in a CS District on the following described tract:

Lot 2, Block 1, Auda's Addition to the City of Tulsa, Oklahoma.

9496

Action Requested:

Minor Variance (Section 930 - Bulk and Area Requirements in the Industrial District - Under the Provisions of Section 1630) for a variance of the frontage requirements to permit two lots with 60' of frontage and 135.21' of frontage to permit a lot-split (L-13994) in an IL District located at 58th Street and Garnett Road.

Presentation:

Triangle Development Company was not represented.

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 SMITH, the Board (5-0) granted a Minor Variance (Section 930 - Bulk and Area Requirements in the Industrial District - Under the Provisions of Section 1630) for a variance of the frontage requirements to permit two lots with 60' of frontage and 135.21' of frontage to permit a lot-split (L-13994) in an IL District on the following described tract:

The S/2 of Lot 3, Springfield Addition to the City of Tulsa, Oklahoma.

9499

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 25' to 22' 6" in an RS-2 District located at 1850 East 57th Place.

Presentation:

Preston Whitson submitted the plot plan (Exhibit "M-1"), requesting a variance of the rear yard requirements in order that a den/family room might be added to the existing residential structure.

Protests: None.

9499 (continued)

Board Action:

On MOTION of JOLLY, the Board (5-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in the Residential District - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 25' to 22' 6", per plot plan, in an RS-2 District on the following described tract:

Lot 4, Block 5, Corona Heights 2nd Addition to the City of Tulsa, Oklahoma.

9503

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 20' to 16.5' in an RS-3 District located at 6622 South 67th East Avenue.

Presentation:

Emory Miller submitted the plot plan (Exhibit "N-1"), requesting a variance of the rear yard requirements from 20' to 16.5' in order that a den might be added to the existing structure. The variance is required because of the odd-shaped lot.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (5-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 20' to 16.5' per plot plan in an RS-3 District on the following described tract:

Lot 5, Block 4, Park Plaza South Addition to the City of Tulsa, Oklahoma.

9514

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 20' to 16' in an RS-3 District located at 10606 East 6th Street.

Presentation:

A. L. Taylor submitted the plot plan (Exhibit "O-1") requesting a variance of the rear yard requirements from 20' to 16' in order that a den for additional family living area might be added to the existing structure.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (5-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 20' to 16' per plot plan in an RS-3 District on the following described tract:

Lot 14, Block 16, of Blocks 15, 16, 17, and 18, Wagon Wheel Addition to the City of Tulsa, Oklahoma.

ADDITIONAL ITEMS:

Interpretation:

Paul Jenkins, Zoning Inspector, requested an interpretation from the Board as to whether or not a building permit should be required for a tree house as an accessory building, noting that he had had an inquiry into the matter by a citizen.

Upon questioning by the Board, Mr. Jenkins advised he had not yet received a formal written complaint concerning a tree house; therefore,

it was the consensus of the Board that the matter should not be a concern until such time as a written complaint which requires formal action has been received by the Building Inspector's Office.

There being no further business, the Chair declared the meeting adjourned at 4:53 p.m.

Date approved _____

June 2, 1977

[Signature]

Chairman