

BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 237  
Thursday, June 2, 1977, 1:30 p.m.  
Langenheim Auditorium, City Hall  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Guerrero, Chairman Jolly Purser, Mrs. Smith (in at 1:40 p.m.)	Blessing	Edwards Etter, Mrs. Gardner Jones	Jenkins, Building Inspector's Office Miller, Mrs., Building Inspector's Office Pauling, Legal Dept.

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

MINUTES:

On MOTION of JOLLY, the Board (3-0) approved the Minutes of May 5, 1977 (No. 235).

UNFINISHED BUSINESS:

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:

Ed Bates, representing the Frates Company, submitted a letter (Exhibit "A-1") from the Property Development Manager of Helmerich and Payne which advised that Helmerich and Payne was aware of the application and had no objections to the application as had been presented to the Board. It was pointed out that Helmerich and Payne are the only property owners within 300' of the application, other than the Frates Company. Mr. Bates again reviewed the proposal and plan for the information of the Board as had been presented at a previous meeting when the application was first presented.

Mr. Gardner noted that when the plan was originally presented, the Staff had advised that multifamily development in the commercial district was proper planning and the Staff's concern at that time was with drainage; however, an exception to the moratorium has been approved by the City and all drainage requirements can be met and the Staff supports the application as presented.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) approved an 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, per plot plan originally submitted, on the following described tract:

- A: Commencing at the Northeast corner of Section 30; thence South  $00^{\circ}-08'-29''$  West a distance of 1,350.00' along the East section line, said Section 30; thence North  $89^{\circ}-57'-04''$  West a distance of 50.00' to the point of beginning; thence South  $00^{\circ}-08'-29''$  West a distance of 642.37'; thence North  $89^{\circ}-51'-31''$  West a distance of 342.77'; thence on a curve to the right with a radius of 255.00', a distance of 75.66'; thence North  $72^{\circ}-51'-31''$  West a distance of 91.89'; thence North  $77^{\circ}-08'-52''$  West a distance of 200.56'; thence North  $00^{\circ}-08'-29''$  East a distance of 559.10'; thence South  $89^{\circ}-57'-04''$  East a distance of 700.84' to the point of beginning; said tract lies all in the SE/4 of the NE/4 of Section 30, Township 19 North, Range 14 East, IBM, Tulsa County, Oklahoma, and contains 10.000 acres, more or less.
- D: Commencing at the Northeast corner of Section 30; thence South  $00^{\circ}-08'-28''$  West a distance of 1,350.00' along the East section line, said Section 30; thence North  $89^{\circ}-57'-04''$  West a distance of 750.84' to the point of beginning; thence South  $00^{\circ}-08'-29''$  West a distance of 559.10'; thence North  $72^{\circ}-51'-31''$  West a distance of 1,157.00'; thence on a curve to the right with a radius of 170.00' a distance of 106.69'; thence North  $42^{\circ}-59'-06''$  East a distance of 216.82'; thence South  $89^{\circ}-57'-04''$  East a distance of 1,045.00' to the point of beginning; said tract lies all in the NE/4 of Section 30, Township 19 North, Range 14 East, IBM, Tulsa County, Oklahoma, and contains 10,000 acres, more or less.

Action Requested:

Approval of the plot plan for the restaurant which was approved by the Board on March 17, 1977--the plan including the location of the sign. The plan is being submitted this date for approval in order that building permits might be issued.

Presentation:

Bill Richard of Whiteside and Grant, submitted the plot plan Exhibit "B-1") advising that the structure is setback 150' from the centerline, that two curb cuts have been approved by Traffic Engineering as noted on the plot plan, and the sign location has been provided on the plan as required by the Board.

Mr. Gardner pointed out that the sign, from a planning standpoint, had been moved as far away from the residential properties as possible to help protect the residential development. He noted that the plot plan met the concerns of the Board at the time the application was approved.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (3-0) accepted the plot plan as submitted as meeting the intent of the Board's previous approval.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 420.2 (c) - Accessory Uses in Residential Districts) to rent rooms in an RS-3 District located at 2136 East Mohawk Boulevard.

Presentation:

The Staff submitted a letter (Exhibit "C-1") from Mr. and Mrs. Clyde Woods, 2138 East Mohawk Boulevard, which listed a number of complaints with regard to the operation being undertaken on the subject property. Mrs. Woods also advised in the communication that she did not receive notice of the hearing and therefore was not present to protest. At the time the application was presented to the Board, the Staff pointed out, the Board advised the applicant that the structure could be utilized for no more than five persons at any one time, that no signs were permitted by the Code, and that all other requirements applicable to the RS-3 zoning district are required to be met with regard to his renting the rooms. Also, no action was taken with regard to the above-noted Exception as the application was not properly before the Board.

Protests: None.

Board Action:

SMITH moved to rescind the Board's previous action and reopen the hearing, after which Board Member Jolly questioned whether or not the Board could do so. After lengthy discussion,

On MOTION of PURSER, the Board (4-0) directed the Building Inspector's Office to inspect the operation on this property and directed the Staff to advise the applicant to be present at the Board's June 16, 1977 meeting as the application would again be discussed.

Action Requested:

Appeal (Section 1450 - Appeals from the Building Inspector) for refusing to permit a radioactive service company; and a Variance (Section 810 - Principal Uses Permitted in Corridor Districts - Under the Provisions of Section 1670) to permit the operation of a radioactive service company, the parking of trucks and the storing of photographic supplies in a CO District located at 8441 South Union Avenue.

Presentation:

Charles Sublett, representing K. V. Ozmun, advised that Mr. Ozmun had constructed a residence and steel building from which he operates his business. He parks between 10 and 12 pickup trucks on the property on various occasions and the steel accessory building contains his office where he keeps books and takes telephone calls and stores photographic equipment. Mr. Sublett noted that the Building Inspector had determined that the use was not permitted in the CO District; however, he felt that this was incorrect as the Building Inspector felt that the use was industrial in nature. Should the Board also determine that the use is an industrial use, Mr. Sublett requested that the variance then be granted to permit the continued use of the property.

Mr. Sublett submitted 8 photographs (Exhibit "D-1") which included a photograph of Mr. Ozmun's residence which is located in the middle of a 30-acre tract in the country. He pointed out that there is nothing for some distance to the north or south, but there are a number of uses across the road. A photograph of the steel building which contained trucks parked inside was presented, at which time Mr. Sublett noted that there are also trucks parked outside the structure. Other photographs included the office portion of the structure and a small lead box which is used as the case which contains the radioactive device which is activated in the field for industrial x-ray purposes. These devices, he advised, are approximately 8" x 2" x 6", constructed of lead, and locked and sealed by a company in Massachusetts that builds the devices by Federal license and ships them here to be used until the supply is depleted and they are returned to the company in Massachusetts. With regard to the method of operation, Mr. Sublett advised that his client takes calls from his customers who desire his services. He then contacts his employees who come to his home and get the trucks which contain the devices and travel to the location where the operation is conducted. Most work is in Kansas, Texas and Oklahoma. The employee takes the x-rays of oil field and pipeline operations conducted in the field. The activity at the job site is that the men arrive with the equipment and set up to take pictures of the equipment that is to be x-rayed. The employee takes out the device which is kept in a locked, sealed compartment in the truck and places it in the desired location, hooks up the cable, unrolls the cable and cranks the specially-built cable so as to allow him to x-ray the equipment. That is the only time that any x-ray of any kind is released from the box and it must be done in this manner. The box is specifically designed and built and locked and sealed so that it can be operated in no other way. The employee then takes the reading to determine

if everything is safe and at that time he reassembles the equipment, locks it back into the truck and returns to the subject property where it is stored until it is needed again.

Mr. Sublett again noted that the only operation conducted on the subject property is the office portion of the operation in that Mr. Ozmun receives calls from prospective customers, the trucks are stored on the subject property inside and outside the steel building until needed, and he stores a small amount of photographic supplies similar to those used by the general public for their own private needs.

Mr. Sublett reviewed the number of uses that are permitted in the CO District, pointing out that offices and studios are permitted as well as other trades and services which he felt fit the description of the use that is made of the subject property. He felt that the principal use of the subject property was office and storage. He pointed out that a number of the uses permitted in the CO District are very intense type commercial uses and much more intense than that which is operated on the subject property. He noted that drag strips and race tracks were permitted in the CO District and could be operated on the subject property; however, the non-intense activity proposed has been said to be not permitted in the CO District. Mr. Sublett submitted 6 additional photographs (Exhibit "D-2") of the development in the area which includes a church, abandoned building, a very large City land fill, a bulk gasoline operation, and truck operations that are conducted within residential areas. He further submitted a list of other x-ray activities (Exhibit "D-3") that can be found in Tulsa, noting that several of the x-ray operations conduct the activities within the City and on the property containing the office. If the Building Inspector is correct in his determination that the proposed use is not permitted within the CO District, then the two x-ray operations located in commercial areas of the City are in violation of the Zoning Code; however, he felt that these two operations were similar to the subject operation in that the radioactive activity is not conducted on the property containing the office, but out in the field.

Mr. Sublett felt that the basis of the controversy involved the question of radioactivity. He pointed out that radioactive control is the exclusive jurisdiction of the Federal agency charged with regulating radioactive activities such as that which is proposed this date. The agency has licensed the subject operation and periodical reports are filed and the operation is continually inspected and must comply with the Federal regulations.

In his summary statements, Mr. Sublett pointed out that this operation is much less intense than that which is allowed and that which is conducted in the immediate vicinity of the subject property. This operation has none of the characteristics which do characterize industrial-type operations. He questioned where would be a more appropriate location for such a use than the subject property which is in the country and far distant from any residential area. With regard to the use, Mr. Sublett noted that his client's alternative

would be to have each employee maintain his own truck on his residential property rather than having them stored on the subject property; however, he felt the proposed use would be a better solution.

Mr. Gardner summarized the history of the property at the Board's request and its use from the time the Board approved the construction of a steel building represented to be a barn to the time the use was found in operation, charges were filed, and rezoning was sought and approved, even though the rezoning would not permit the use by right as it was determined to be an industrial use by the Building Inspector. The basis for the application at this time is an appeal from the decision of the Building Inspector that the use is an industrial use and not permitted within the CO District. Mr. Gardner noted that if the Board finds the use to be appropriate within the CO District, the applicant is required to have a detailed site plan reviewed by the Planning Commission and approved by the City Commission as set forth in the Zoning Code.

Mr. Sublett did not feel that the use should be considered an industrial use as it is more along the line of a commercial use, with the industrial portion of the use being undertaken in the field. The types of uses which are considered to be industrial are those which have objectionable effects such as dust, noise, odor, smoke, etc., and the proposed operation does not provide any of these effects.

David Pauling, Assistant City Attorney, pointed out that earlier in the year the Building Inspector came to the Board and presented what he felt was the activity being conducted on the subject property and the Board, at that time, interpreted the use as presented by the Building Inspector as a Use Unit 25 use. The applicant, at this time, is primarily addressing the field portion of the use and is in effect trying to present the "other side" since he was not present to present the actual operation to the Board at the time the activity was determined to be a Use Unit 25 use. Mr. Pauling pointed out the Board's alternatives with regard to making a decision on the application.

Paul Jenkins, Zoning Inspector, advised the Board that Mr. Ozmun operated on South Harvard for some time and his vehicles were parked at that location as his office had received many complaints. Mr. Ozmun then moved the operation to the subject property. Before his building was complete, it was noted by the Building Inspector's Office that because of the electrical hookups being required that the structure was to be used for something other than a barn and he was advised that the building could not be used for commercial purposes. At that time a rezoning application was filed and he was again advised that the CO zoning requested would not permit the use. Mr. Ozmun's operation is in the industrial x-ray section of the telephone book.

Protests: None present.

The Staff submitted a letter (Exhibit "D-4") from J. M. Allen, Jr. opposing the subject application as he felt Mr. Ozmun had created his own problem. Also submitted was a letter of protest (Exhibit "D-5") with attachments from the District 8 Chairman opposing the application.

Mr. Sublett again noted that the use is listed in the telephone book as an industrial x-ray operation but the x-rays are not conducted on the subject property. He did not feel that the proposed use was similar to the others listed in the telephone book because of the manner in which the business is operated.

Upon questioning by the Board, Mr. Jenkins advised that the land fill was being phased out, but he was not aware of a definite time frame.

Upon questioning by the Board, Mr. Sublett advised that the office is contained within the front 1/3 of the structure where the photographic supplies are stored, while the rear 2/3 of the building contains Mr. Ozmun's boat, motorcycles, and trucks. He also occasionally washes the trucks inside and will repair a truck himself if there is a need; however, maintenance and repair are not a part of the business, the repair is for his personal need.

Board Member Smith advised that Mr. Allen had called him and advised that his main objection was the radioactivity portion of the application. He noted he called the City-County Health Department and found there were no complaints filed with them regarding the operation and he was referred to a representative of the State Health Department. When he spoke to the State representative, he also found that there were no complaints with the actual radioactivity involved in the operation. The representative explained fully the operation and advised that he would be willing to attend the Board meeting in order that he might present his statements with regard to such an operation. In his statements to Board Member Smith, the representative advised that with regard to public health and safety there is no hazard in this operation as there is more danger connected with the radial isotopes used in the City's hospitals.

Board Member Purser advised that she was concerned with the misrepresentations that had been made by the applicant when the Board approved the structure as a barn, after which Mr. Sublett apologized for any misrepresentation that might have been made in the past, noting that he was attempting to rectify the situation at this time and would answer any questions the Board might have with regard to the operation. Upon questioning with regard to a hardship, Mr. Sublett advised that the hardship would be that the Ordinance in this instance is based upon such a narrow interpretation based upon the general type of use as opposed to what actually goes on on the property and the character is such that this use is clearly appropriate and he felt that a denial of the use on the basis of the general classification would work a hardship on the applicant. The Zoning Code speaks to extraordinary or exceptional situations with regard to variances and Mr. Sublett felt that to classify this operation as an industrial use based on an idea of the x-ray type operation is a hardship.

Mr. Pauling advised the Board that the record shows that the applicant was represented by Mr. Sublett's father when the Board granted approval of the steel building. Also, the zoning problem was addressed by the Building Inspector and charges were filed and additional zoning obtained. This applicant, by the Zoning Code, has been punished;

therefore, the Board should not deny the application because of any misrepresentation that was made in the past. The issue at this time is a determination as to what Use Unit the operation should be included in as described this date. Since the Board classified the use as a Use Unit 25 upon representation from the Building Inspector's Office, if the Board found this date that the use should be Use Unit 15 as described, the Board would sustain the appeal of the applicant and require appropriate site plan approval from the Planning Commission. Mr. Gardner added that if the Board makes this finding, he felt the Board should limit the decision to this particular application as this x-ray operation may not actually be conducted on the subject property, but x-ray activities may be done on the site at other locations throughout the City.

Board Action:

SMITH moved to sustain the decision of the Building Inspector and direct the applicant to obtain a site plan approval from the Planning Commission, finding the use to be within Use Unit 15 in this particular instance, as this is a unique use with no x-rays being taken on the property containing the office use and subject to the x-rays never being taken on the subject property.

After Board discussion, the motion was withdrawn.

On MOTION of JOLLY, the Board (4-0) upheld the decision of the Building Inspector and granted a Variance (Section 810 - Principal Uses Permitted in Corridor Districts - Under the Provisions of Section 1670) to permit the use upon a finding that this is not a principal use variance but that the x-ray operation is incidental to the principal office and storage business, based on the representation made this date by the counsel for the applicant, with the understanding that there are no x-ray operations performed on the site at this time nor will any be permitted in the future, subject to a detailed site plan being approved by the Planning Commission and City Commission within 120 days from this action (October 6, 1977) in a C0 District on the following described tract:

The N/2 of Block 1, High Chaparral Addition to the County of Tulsa, Oklahoma.

Action Requested:

Variance (Section 310 - Principal Uses Permitted in the Agriculture District - Under the Provisions of Section 1670) to permit the erection of a building to be used for the assembly of electrical components and equipment in an AG District located in the 7300 block of West 7th Street.

Presentation:

Charles Sublett advised the Board that the subject property is owned by his client's father, is zoned AG and the Plan for this District designates the area for residential development in the future. Mr. Sublett noted he had filed the application as a variance because the

circumstances warrant such. The area is characterized by rugged and steep grades so much so that the area has also been designated a Development Sensitive area by the District Plan. He submitted 6 photographs (Exhibit "E-1") of the subject and surrounding properties in order that the Board might be aware of the manner in which the area is developed. In reviewing the development in the area, Mr. Sublett did not feel that the proposed use of assembling electrical components would be incompatible with the area. He pointed out that he had advised his client to speak with all the neighbors in the area prior to the meeting concerning the proposed operation and to date he had received no complaints.

With regard to the operation, specifically, Mr. Sublett advised that it is a clean operation in that his client takes orders for electrical control boxes and assembles them himself. There are no customers coming to the property to create traffic in the area. His client is the sole proprietor and has no employees other than himself at the present time, even though he did have a part-time helper at one time and plans to have no one other than his immediately family working with him. Mr. Sublett advised that his client resides on the property and the use would be accessory to the residential use.

Interested Party:

Henrietta Kammerzell, 520 South 73rd West Avenue, questioned where she would complain if the use were not well maintained, after which she was advised that her complaints would be filed with the Health Department. Mrs. Kammerzell advised the Board that she had no objections to the use.

Protests: None.

The Staff submitted a Communication (Exhibit "E-2") from the Sand Springs Board of Adjustment which advised they had no objection to the use.

Mr. Gardner expressed concern with regard to the use as a variance, pointing out that the operation might be considered a home occupation if the operation is as that described by Mr. Sublett. Because the application has been advertised as a variance, the exception to permit a home occupation could be considered.

In his comments to the Board concerning the variance, David Pauling, Assistant City Attorney, advised the Board that the Comprehensive Plan must be taken into consideration and the rules of procedure that were adopted by the Board on an interim basis must be adhered to.

In discussion of the application, the Board determined that Mr. Sublett's client does not reside in the structure to contain the use or on the premises, therefore the use could not be considered as a home occupation even though it meets the other criteria for a home occupation.

With regard to the proposed location of the structure, Mr. Sublett advised that he had walked the property with his client and because of the topography and tree coverage the proposed location is the most level portion of the tract which would accommodate the 36' x 48' structure.

In further Board discussion, Mr. Sublett advised it was his understanding that the rules of procedure for principal use variances had not yet been adopted, after which he was told that they had been adopted by the Board previously. It was the consensus of the Board that the application should be continued until such time as Mr. Sublett could relate the request with regard to the rules of procedure.

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 9494 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, in order that the applicant could present further information regarding the principal use variance requested.

9508

Action Requested:

Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1224 - Mining and Mineral Processing) to permit mining, quarrying, extraction and processing of mineral products in an IM and IH District located southeast of 36th Street North and Mingo Valley Expressway.

Presentation:

Charles Norman, representing Anchor Stone, advised the Board that Anchor Stone has a contract for purchase of the property under application this date. The property is 104 acres in size, zoned IM with IH on the interior and is underlain with heavy limestone deposits covered by one to five feet of top soil. However, some of the rock is on the surface. Mr. Norman presented an aerial photograph, pointing out that immediately south of the subject property is the Southwest Raceway drag strip operation which runs the entire mile across the section; to the north of 36th Street North is undeveloped property 3/4 of which is zoned IH; directly across the street on 36th Street North is a stone processing plant; immediately to the east is an abandoned quarry operation that was conducted through the 1960's by Standard Industries and to the south of this is a concrete pipe plant which manufactures large sanitary and storm sewer pipe sections; to the north of 56th Street North are existing quarry operations and to the east of 129th East Avenue are existing quarry operations owned by Standard Industries and McMichael Concrete in addition to the existing Anchor Stone operation; to the east of the section in which this property is located is the Martin-Marietta quarry; and, to the south and southeast is the Chandler quarry operation which has been in place for many years. In researching the record pertaining to the zoning of the area, Mr. Norman noted that he had found that most of the quarry operations commenced prior to the City's having zoning jurisdiction in this area. Since the area came within the jurisdictional boundaries of the City, there have been two quarry operations approved in this vicinity (in April and June 1973). Also, there has been a determination that the existing quarry near 36th

Street North and the Mingo Valley Expressway is a valid nonconforming use.

The application of Anchor Stone is to operate a quarry on the subject property and the processing plant which would crush and segregate the mineral products for the same types of uses being conducted in this area between the Mingo Valley Expressway and Rogers County Line. In reviewing a smaller scale aerial, Mr. Norman pointed out the boundaries of the property and noted that the Federal Insurance Administration maps designate the northeasternmost portion of the property (two or three acres) as being located within the 100-year floodplain. The existing quarry and mineral processing operations located in this area have been operated for many years and were approved without concern to the environmental impact of the operations on the surrounding property. Upon securing the contract for purchase of the subject property, Anchor Stone obtained the services of White Engineering and Associates of Joplin who are mining specialists to analyze this particular tract in relationship to the surrounding properties and land uses and make specific recommendations to Anchor Stone as to what should be the operational standards to avoid any adverse impact upon adjacent land uses which would cause any structural damage to the land or to the uses and buildings on it. After the study was made, operation and development standards were developed (Exhibit "F-1"). David Bowling of White Engineering Company of Joplin, in his study recommended that the quarry operation be screened from public view by the construction of an earthen embankment along the entire northern boundary on 36th Street North and that the embankment also be constructed along the western boundary to the southwest corner of the property and then back to the east at least 400' with the embankment to be at least eight feet above grade level and having a base width of at least twice the height of the embankment. Also, the earthen embankment is to have a constant elevation above sea level. The purpose of the embankment is to screen the operation from 36th Street North and the Expressway in addition to the properties containing residences. The embankment is also to be planted with seed or appropriate vegetation to prevent erosion. The second recommendation was that the blasting operation be required to be performed in conformance with the limits for structural safety that are recommended by the U. S. Department of Interior in Technical Bulletin #656. Also set out in this recommendation is an equation for determining the maximum blast weight of explosives in relation to the distance to the nearest structure. The third recommendation is to establish a setback for the quarry operation for 50' for all boundaries or a setback of not less than two times the bench height--the bench height being the depth of the quarry or from the adjacent property to the floor of the property. The fourth recommendation was that blasting be done between the hours of 8:00 a.m. and 6:00 p.m. weekdays with no blasting at all on Saturday or Sunday. Mr. Norman pointed out that these standards would reduce any impact on surrounding land uses visually except to the south where the existing drag strip is located and to the east where the existing operation is located. Also, the standards will provide the specific method for controlling the weight of explosives used and insure the elimination of any structural damage on the surrounding properties. He pointed out that it was within the

interests of Anchor Stone to protect its own buildings and equipment and eliminate any possibility of civil liability for damage that might be caused by conducting the operation in any manner that might create damage to neighboring properties.

David Bowling, professional geophysicist with White Engineering Company, advised that the nature of his firm is the establishment of safe blasting limits for mines, quarries and other such facilities. He noted he was asked by Anchor Stone to survey the area under application and make specific recommendations regarding the operation to assure that appropriate safety methods would be utilized. The recommendations he made were correct as presented by Mr. Norman. With regard to blasting procedures, Mr. Bowling pointed out that the Bureau of Mines had conducted a series of public studies years ago and ongoing research was still being undertaken in this particular field. For the Board's information Mr. Bowling explained the equation used in determining the weight of explosives permitted and setback recommended for the proposed operation. Upon questioning by the Board, he advised that he would monitor by instrumentation the quarry operation but would not load the charge, as the Company had nothing to do with drilling or detonation, but had suggested only the hole patterns and maximum weights and would monitor the effects and advise when the maximum quantities had been used. The equation, he pointed out, has validity as it has been verified by many people who conduct this type of work.

Mr. Norman pointed out that there are no applicable regulations after the operation has been completed, but the most frequent reuse of the land of this kind is for a sanitary land fill or for recreational purposes as the holes can be filled with water. Otherwise, there are no materials to recontour the land since the area is primarily rock.

Upon questioning by the Board, Mr. Bowling advised that the rock ranges in depth from 40 to 60 feet and the remaining holes would be approximately 40 to 45 feet deep.

#### Protests:

Jim Eagleton, attorney representing 18 to 20 homeowners in the area, questioned whether or not the standards presented this date were being undertaken by the existing quarry operations in the area. He noted that there are presently three quarries in operation in the Township the subject property is located within, operated by Standard Industries, Chandler and Anchor Stone, pointing out that there are no quarries located west of 129th East Avenue. With regard to the quarry permitted by the Board in 1970 on the Carlin property, Mr. Eagleton pointed out that the decision was reversed by the District Court and then affirmed by the Oklahoma Supreme Court. The Martin-Marietta operation, Mr. Eagleton advised, is a storage operation and not a quarry. Even though there is a mile between the quarry operations and the homeowners, they have experienced problems with dust from the crushers and their walls have been cracked because of the blasting. Mr. Eagleton did not feel that the operation would be an advantageous use of the property with the setback being a mere 50' from the abutting property lines. The protestants, Mr. Eagleton advised,

represent over 700 acres of ownership in this area, while he himself represented between 350 and 400 acres of ownership.

Ira Sanditen, 3126 South Atlanta Avenue, advised the Board that he owned over 420 of the 578 acres which he represented at the meeting this date. The property in the area, he noted, is primarily industrial land that has been held for future industrial purposes. The drag strip is a temporary use and will be removed when the property is to be used for industrial purposes. The drag strip property, which he has owned for four or five years, he noted, is ideally situated for medium-intensity industrial use and at present in the City of Tulsa there is a very small amount of medium-intensity industrial land available for use. The Chamber of Commerce has advised that there is a shortage of this type of industrial land and if the subject application is approved his land would be virtually useless for any development in the commercial or industrial classifications and no one would want to use the area for residential development. The earthen berm recommended would be on a two to one slope and would be very dangerous for anyone trying to mow because of the angle, Mr. Sanditen felt; therefore, the vegetation would grow and become an eyesore. Further, he felt that the dust pollution raised by the operation would be detrimental to the area, pointing out that he was not questioning the actual operation but felt that the use would be a hindrance to the area. Upon questioning, Mr. Sanditen advised that he had tried to sell his property to Anchor Stone but they did not wish to purchase any of the property; and further advised that he would sell his property for quarry purposes if the purchaser purchased the entire section.

Mrs. Fern Sunderland, Route 3, Box 207, advised the Board that she had owned 13 acres to the south of the subject property for 30 years and was concerned that the earthen embankment proposed would stop runoff to her property from the subject property which is used to water her stock.

Larry Henry, attorney also representing clients in the area, felt that the property might become another lake as had other operations in the area when the quarrying had been completed. He questioned whether or not a rock quarry was permitted and legally exists in the City. He cited portions of the Zoning Code and Section 651 of the Penal Code, feeling that the Ordinance speaks for itself in that rock cannot be quarried within the City of Tulsa unless it was being quarried prior to the City having jurisdiction in that particular area. Mr. Henry advised that he was aware that a mining operation could take place by exception in the IL and IM Districts and also that he was aware how the Penal Code would circumscribe that power to allowing the special exception in the five-mile perimeter, but within the City Limits the quarrying would be prohibited. With regard to a person stating that the operation is not a mining operation but a rock quarrying operation, Mr. Henry advised that he had looked to the Zoning Code which made no mention of quarrying--only that there was a listing for mining. Because strip mining has specifically been prohibited from the City Limits, Mr. Henry questioned whether a zoning authority could prohibit the quarrying of the stone also. He cited a court case

in Rogers County where the Court upheld the decision that quarrying was not to be permitted as the Board has the authority to prohibit this type of activity. The authority of the Board to prohibit this type of activity is unquestioned in the State of Oklahoma and the Ordinance does prohibit the use, Mr. Henry stated; therefore, he contended that the application of Anchor Stone is improper and cannot be granted and if granted would be useless and the Company would be committing a criminal offense by conducting the operation. Mr. Henry submitted a list (Exhibit "F-2") of the cases and Ordinances cited for the Board records.

In his comments to the Board, Mr. Norman pointed out that there had been no objections to the operational standards as proposed by Anchor Stone. He presented an aerial photo to the Board, pointing out the location of the protestants who are opposed to the operation, in relationship to the property under application. From an environmental impact point, Mr. Norman advised that the operation would not be adding to the existing quarry disturbances which have in some instances been in operation for 30 years and have not been conducted subject to the conditions presented this date. He noted that the Sunderland and Fleming properties are more closely affected than others opposed, pointing out that the western property is underlain with commercial quantities of limestone. He felt that the best use of these properties is for medium-or high-intensity industrial uses since the surrounding properties are zoned for similar quarry operations as that proposed this date. With regard to Mrs. Sunderland's concern about the water runoff being dammed, Mr. Norman pointed out that this is not a tributary and therefore no law is violated by the construction of the earthen embankment proposed. He felt that the comments presented by Mr. Henry were interesting but since the entire area was annexed 10 years ago the Board has granted approval to applications referred to earlier and to his knowledge the City has not interpreted the sections referred to by Mr. Henry as prohibiting mineral extractions other than oil or gas operations. If that should be the case, Mr. Norman felt that this was not the Board before which the question should be disputed. He noted that the entire area north of 36th Street North, which is zoned IH, is also underlain with heavy and surface deposits of limestone so in the future that land will more than likely be before the Board for some type of quarry operation. The quarry use is permitted by exception via the Board of Adjustment in the IM and IH Districts, which are compatible with other uses permitted in these areas according to the Zoning Code. He felt the purpose of the Board was to review the method by which the use is to be operated and to take appropriate action to insure that the use will be compatible with other uses in the area and not be a detriment. He felt the development standards submitted were appropriate to make the proposed use compatible with the area.

Upon questioning by the Board, David Pauling, Assistant City Attorney, advised with regard to the Board's having authority to permit the use, that during the case of Martin-Marietta the Legal Staff, on request, prepared a legal opinion regarding the Zoning and Penal Codes which stated that the Board does have the authority to consider and if found appropriate, grant approval of an exception to the Zoning Code to permit a quarry operation. As Mr. Henry pointed out, the approval

will not nullify the application under the Penal Code provision on a property owner so the Board might approve it and the owner then face the problem of the Penal Code provision. With regard to ambient air quality and requirements by the Environmental Protection Agency and the City-County Health Department, Mr. Pauling advised that the operation of the processing facilities is under the jurisdiction of the Health Department which administers the air quality standards of the State.

In his final comments to the Board, Mr. Eagleton did not feel that the Board should exercise the authority to permit someone to violate the law and if the Board counsel states that it is a violation he did not feel that the Board should consider the request. He noted the residents present, the location of their ownerships and advised the Board that they object to the nuisances created by such operations.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 910 - Principal Uses Permitted in the Industrial Districts - Section 1224 - Mining and Mineral Processing) subject to the following development standards presented by the applicant, in an IM and IH District on the following described tract:

1. To screen the quarry operation from public view, an earthen embankment shall be constructed along the north boundary adjacent to 36th Street North and the west boundary along the Mingo Valley Expressway. The embankment shall also be constructed along the south boundary of the property from the southwest corner eastward, a distance of 400 feet to provide a screen for the two residences situated near the southwest corner of the property and to restrict the view of the north-bound traffic on the Mingo Valley Expressway.
2. The embankment shall be at least eight feet in height at any point, and the top of the embankment shall be approximately the same elevation above sea level for its entire length to accommodate changes in the topography along the above boundaries of the property. The base width of the embankment shall be at least two times its height and it shall be seeded or planted with appropriate vegetation to control erosion.
3. The blasting operations of the quarry shall be performed in conformance with the limit for structure safety recommended by the United States Department of Interior Bureau of Mines in Bulletin No. 656 (p. 73) where the ground response has not been established by instruments. The equation  $W = \left(\frac{D}{50}\right)^2$  shall be applied for determining the maximum charge weight of explosives to be fired at any single instant in time which is commonly referred to as the charge weight per delay period. In this equation D is the distance in feet from the blast to the nearest structure, and W is the maximum charge weight of explosives per delay period.

As an example, if the distance from a blast to a structure were 500 feet, the maximum charge weight of explosives per delay period would be 100 pounds.

No deviation from the above equation shall be permitted unless the Board of Adjustment has approved such deviation after the submission of actual ground vibration level data acquired at the site during the actual operation of the quarry.

4. The quarry operation shall be set back from adjacent property lines a distance of two times the bench height of the quarry adjacent to the property line; provided, in no case shall the set back be less than fifty feet.
5. No blasting shall be done except between the hours of 8:00 A.M. and 6:00 P.M. on weekdays.

N/2 of the NW/4 and S/2 of the NW/4 of the NE/4 and the N/2 of the SW/4 of the NE/4 of Section 20, Township 20 North, Range 14 East, LESS the following two tracts:

- (a) That portion thereof taken for highway purposes; and
- (b) A 20-acre tract more particularly described as follows:

A part of the NW/4 of the NW/4 of Section 20, Township 20 North, Range 14 East, Tulsa County, Oklahoma, being more particularly described as follows, to-wit:

Commencing at the Northwest corner of said Section 20, Township 20 North, Range 14 East; thence North  $89^{\circ}-45'-15''$  East along the North line of said Section 20, a distance of 1,342.10'; thence South  $0^{\circ}-14'-45''$  East a distance of 50.00'; thence South  $80^{\circ}-17'-30''$  West a distance of 178.00' to the point of beginning; thence South  $0^{\circ}-02'-49''$  East a distance of 1,240.60' to a point on the South line of the NW/4 of the NW/4 of Sec. 20, Township 20 North, Range 14 East, said point being 153.05' West of the Southeast corner thereof; thence South  $89^{\circ}-48'-13''$  West along the South line of said NW/4 of the NW/4, a distance of 1,053.66' to a point 112.49' East of the West line of said Section 20; thence North  $16^{\circ}-07'-57''$  East a distance of 0.00'; thence along a curve to the right, with a central angle of  $45^{\circ}-30'-13''$  and a radius of 300.00' a distance of 238.26'; thence along a curve to the left

9508 (continued)

with a central angle of  $61^{\circ}-36'-12''$  and a radius of 500.00', a distance of 537.59'; thence North  $0^{\circ}-01'-16''$  West a distance of 500.00'; thence North  $44^{\circ}-58'-44''$  East a distance of 107.04'; thence North  $89^{\circ}-45'-15''$  East, parallel with and 125.00' perpendicularly distant from the North line of Section 20, a distance of 294.80'; thence North  $80^{\circ}-17'-30''$  East a distance of 278.21' to the point of beginning.

9510

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 District located south and east of 16th Street and Memorial Road.

Presentation:

Mark Hoskins requested permission to erect a four-bay car wash on the subject property, noting that four vacuum cleaners would be located on the rear portion of the property in the drying area. He advised of the uses in the area, feeling that the use would be compatible with the apartments, the strip center, the YWCA and vacant property in the immediate area.

Protests: None.

Board Action:

SMITH moved to deny the application because of the quality development in the area, feeling that the use would not be compatible.

Board Member Jolly questioned whether or not Board Member Smith would consider the application if a plot plan and rendering of the proposed facility were provided, noting that this particular facility might be more attractive than some seen throughout the City. Board Member Jolly advised that at this point he would not support the motion to deny, but would permit the applicant to return to the Board with a plot plan.

9510 (continued)

SMITH withdrew his motion.

On MOTION of JOLLY, the Board (4-0) continued application 9510 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9511

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplexes) to erect three duplexes; and a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the frontage requirements from 75' to 18' to permit duplex development and a lot-split (L-14004) in an RS-3 District located at 6040 South Rockford Avenue.

Presentation:

Don Fitzwater reviewed his previous presentation of the proposed duplex development as information for the Board, noting that three one-story duplex structures were proposed on the property. He noted that the structures were to be 40% brick and 60% wood construction, priced between \$55,000 and \$70,000, and compatible with the area. He felt that with the larger duplex facing the north the character of the area would be maintained as the two smaller structures would be located to the rear of the property behind the larger structure. Mr. Fitzwater also felt that it would be difficult to sell the property for single-family development.

Mr. Gardner noted, from a planning standpoint, that a precedent had already been set for duplex development between the apartment and single-family development. He pointed out the nine duplex lots on the north side of 60th, three of which face Rockford and six of which face into a cul-de-sac. Further to the north, he advised, duplexes were approved east of the apartments. Mr. Gardner noted that the Staff would be concerned if the structures were proposed to be facing the single-family structures, but that is not the applicant's proposal.

Protests:

Richard Kisner, 6004 South Rockford, submitted a protest petition (Exhibit "G-2") containing the signatures of 23 area residents opposed to the application. The petition advised that the residents felt the duplexes would devalue their properties as the homes in the area range in area from 1,600 to 2,200 square feet in size and the homes to the north and south of the proposed duplexes are of all brick construction and have large lawns. It was felt that the rental properties would encourage transient population which would create problems for the

established neighborhood. Also, Rockford is a narrow, partially paved street which carries a heavy amount of traffic at the present time. With regard to drainage, the protestants felt that additional structures and driveways would create more runoff in the area and create problems for the surrounding properties. Also, The Board was advised of the fact that an 8" sewer line serves five homes in the area and it was felt that six additional units might overload the line.

Pat Moydell, 6033 South Rockford, advised the Board that there are no sidewalks in the area and that the closest playground for the children in the area is Heller Park which is one mile away.

Hank Moydell, 6033 South Rockford, advised the Board that he was in agreement with previous statements and noted that traffic in the area backs up on Rockford at present, feeling that the six duplex units would add to the existing problem.

Mr. Fitzwater advised the Board that two of the duplex structures would have two-bedroom units while the larger duplex structure would have three bedrooms, therefore there would not be a great number of children in the structures. He pointed out that the duplexes would be of good quality and would not detract from the existing development in the area. Mr. Fitzwater advised that the property is vacant at the present time and would not be usable unless developed as proposed. He felt that the quality of the proposed duplexes would increase the values of the single-family homes in the area.

Board Action:

On MOTION of SMITH, the Board (4-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplexes) to erect three duplexes as represented to the Board; and a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the frontage requirements from 75' to 18' to permit duplex development and a lot-split (L-14004), per plot plan previously submitted, in an RS-3 District on the following described tract:

The East 25' of the North 145' of Lot 31; and the North 145' of Lot 32, Southlawn Addition to the City of Tulsa, Oklahoma.

NEW APPLICATIONS:

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a poodle grooming shop in an RS-3 District located at 2303 South 118th East Avenue.

Presentation:

Yvonne Lewelling requested permission to operate a poodle grooming shop in her garage, noting that no more than three dogs would be

scheduled each day. She advised she was aware of the home occupation regulations and intended to keep her shop open between 8:00 a.m. and 5:30 p.m., Monday Through Saturday. After the dogs are groomed they will be placed in cages until they are picked up by their owners. Upon questioning, Mrs. Lewelling advised that it takes between one, and one and one-half hours to groom a dog, that she had a two-car drive, and that she would erect no sign for advertising purposes.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a poodle grooming shop, as presented, in an RS-3 District on the following described tract:

Lot 14, Block 8, Leslie Leigh Second Addition to the City of Tulsa, Oklahoma.

Action Requested:

Appeal (Section 1650 - Appeals from the Building Inspector) for refusing to permit a welding shop; an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a welding shop; and a Variance Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) to permit a welding shop in an RS-3 District located at 2123 East Mohawk Boulevard.

Presentation:

O. L. Collins presented his plot plan (Exhibit "H-1"), advising the Board that he wanted to operate a machine shop in his garage with himself as the only employee in the operation.

The Staff advised the Board that the entire property is under one ownership, that Mr. Collins rents a residence on the property and also operates a welding shop in the garage near his residence, and that there are several residences on this one property. Mr. Collins has a hoist outside the garage as well as a steel table used in the operation, the table being outside because it is too long to fit inside the garage structure. The Staff advised that the largest object that Mr. Collins had worked on was a tank.

Upon questioning by the Board, Mr. Collins advised that the hoist is located outside the garage as it is necessary to use it on some occasions, that he welds inside the structure as well as outside, and that the tank that was mentioned by the Staff was between 350 and 500 gallons in size and would not fit into the garage.

Mr. Gardner advised the Board that the business and industrial uses in the area are oriented toward Harvard and toward 36th Street North, and that CS and CH and IL zoning Districts exist near the property.

9519 (continued)

However, the Comprehensive Plan does not recognize this property as nonresidential. Mr. Gardner advised that the Staff had no problem with the requested exception, but was concerned with granting a principal use variance.

Board Member Purser advised Mr. Collins that if the application were approved as a home occupation that no work could be undertaken outside the garage, after which Mr. Collins advised that 75" of the welding is done inside. He advised that because he does not own the property he cannot expand the garage. Upon questioning with regard to the safety factor involved in welding inside a frame garage, Mr. Collins advised that he has a water hose available if necessary.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) upheld the Appeal from the Decision of the Building Inspector (Section 1650); approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) to operate a welding shop, recognizing that the majority of the welding is done inside the garage, with approval being granted to this applicant only, no signs being permitted, and with the understanding that the table and hoist outside the structure will be used on occasion; and gave no consideration to the Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) in an RS-3 District on the following described tract:

A parcel of land in Section 19, Township 20 North, Range 13 East of IBM, Tulsa County, Oklahoma, described as follows, to-wit: Beginning 660' South and 480' West of the Northeast corner of the NE/4 thereof; thence Southwest 422.8' along the North side of Mohawk Boulevard right-of-way; thence North 225.7'; thence due East to the point of beginning, Tulsa County, Oklahoma.

9520

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in the Residential District) to erect a porte-cochere 14 feet from the front property line in an RS-2 District located at 3113 South Florence Street.

Presentation:

J. W. Construction was not represented.

Mr. Gardner advised that the property is located within the moratorium, but has received an exception from the City Commission.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) continued application 9520 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9521

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Home Dwelling) to locate a mobile home in an AG and FD District located at 101st Street South and Harvard Avenue.

Presentation:

Mr. Gardner advised the Board that the property was located within the moratorium and that a protestant that was present earlier had left. He felt the application could not be heard until an exception to the moratorium was obtained and further felt that the application should be continued in order that the feelings of the protestant might be obtained.

David Pauling, Assistant City Attorney, advised the Board that the application could be heard and granted this date, if the Board so desired, subject to the exception being obtained from the City Commission with regard to the moratorium.

William Scheurich, the applicant, advised the Board that stables are located on the 49-acre tract and that his client is planning to locate a mobile home on the property for his trainer. As this is not a residential area, Mr. Scheurich could not understand why anyone would be protesting the application.

Board Action:

On MOTION of PURSER, the Board (4-0) continued application 9521 to June 16, 1977, 1:30 p.m. Langenheim Auditorium, City Hall, Tulsa Civic Center.

9523

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1224 - Mining and Mineral Processing) to operate a quarry and asphalt producing plant in an AG District located at 12859 East 46th Street North.

Presentation:

Lewis Cooper, representing Anchor Stone, advised the Board that the Company would like to construct an addition to the existing plant which has been operating on the subject property since 1939. He noted that the Company produces asphalt and that the addition is a small 16' x 20' structure to house instrument and lab materials. He pointed out that a plan had been submitted to the Building Inspector's Office for the building permit.

Because of the nature of the application, David Pauling, Assistant City Attorney, expressed concern with the notice given the application as the property under application is located 300' within the entire ownership. He felt the Board should make a determination with regard to sufficient notice. Also, if this is felt to be a nonconforming use, this question also needs to be determined as the Board has not in the past granted a nonconforming status to the subject

9523 (continued)

operation. Mr. Pauling pointed out that the applicant must prove that the operation has been in existence as a nonconforming use to this date.

The Staff advised that the application was advertised with no outside notice because of the existing quarry operation on the property. Board Member Smith also noted that there are quarry operations to the east and west; however, regardless of the operations in the area Board Member Jolly felt that the applicant should give notice and prove the nonconforming use status.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) continued application 9523 to June 16, 1977, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

9524

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 30' to 8' in an RS-2 District located at 8504 East Skelly Drive.

Presentation:

Ray Flynt, representing Skelly Drive Baptist Church, submitted the plot plan (Exhibit "I-1") advising that the Church is proposing an 825-seat auditorium and the variance is needed to construct the roof overhang as proposed. He noted that the structure will face the expressway, that the lot is irregular-shaped and there are two existing structures which meet the required setback.

Mr. Gardner advised that a substantial portion of the property is within the moratorium and an exception from the City Commission is required. He pointed out that the applicant was not aware that the property was within the moratorium and that the application could be approved subject to the Church's obtaining an exception to the moratorium from the City Commission.

Protests: None.

Board Action:

On MOTION of SMITH, the Board (4-0) granted a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the front setback requirements from 30' to 8', per plot plan and subject to an exception to the moratorium being obtained from the City Commission, in an RS-2 District on the following described tract:

That part of the NE/4 of the SW/4 of Section 13, Township 19 North, Range 13 East of the IBM in Tulsa County, State of Oklahoma, according to the U. S. Survey thereof, more particularly described as follows:

9524 (continued)

The East 265 feet of a Tract beginning at a point 602.8 feet East of the SW corner of the said NE/4 of the SW/4 of said Section 13, Township 19 North, Range 13 East, Tulsa County, Oklahoma; thence Westerly along the South line of said NE/4, SW/4, a distance of 602.8 feet to a point; thence Northerly along the West line of said NE/4 of the SW/4, a distance of 240.30 feet to a point; thence North 48°-34.5' East a distance of 521.70 feet to a point; thence North 41°-25.5' West a distance of 25.0 feet to a point; thence North 48°-34.5' East a distance of 281.65 feet to a point; thence Southerly in a straight line a distance of 784.81 feet to the point of beginning.

9525

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's day nursery in an RS-3 District located at 602 East Xyler Street.

Presentation:

Maxine Wright advised the Board that 15 children would be cared for in the structure, that the property had a one-car driveway, and that she would be transporting all of the children to and from the nursery; therefore, there would be no parents coming to the nursery.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 410-Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) to operate a children's day nursery, subject to no signs being permitted, in an RS-3 District on the following described tract:

Lot 5, Block 8, Brookdale Investment Company's Resubdivision to the City of Tulsa, Oklahoma.

9526

Action Requested:

Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670) for a variance of the front setback requirements from 100' to 66.3' to permit an alignment with an existing building in an IL District located at 1224 North Lewis Avenue.

Presentation:

Bill Hutson, Jr., general contractor for Coca Cola, presented the plot plan (Exhibit "J-1") and four photographs (Exhibit "J-2") of the subject property, noting that an addition to align with the existing building is proposed.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) granted a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts - Under the Provisions of Section 1670) for a variance of the front setback requirements from 100' to 66.3' to permit an alignment with an existing building, per plot plan, in an IL District on the following described tract:

The East 220' of the N/2, NE/4, SE/4, NE/4, LESS the West 214' thereof; in Section 31, Township 20 North, Range 13 East, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to locate an automobile repair shop and sales lot in a CS District located at the northwest corner of 64th Street and Peoria Avenue.

Presentation:

Kelly McNew submitted the plot plan (Exhibit "K-1") and requested permission to locate an automobile repair shop and used car sales on the subject property. Mr. McNew advised the Board of the various uses in the area, feeling that the proposal would be compatible. With regard to the repair shop, he advised that there would be one mechanic with possible helpers from time to time and that the repair work would be done inside. Also the showroom would be inside and that the repair work would be done on those cars being sold and for the public if repair is needed.

Mr. Gardner advised that the operation as described, with the repair work being undertaken inside, does not overly concern the Staff; however, outside storage of parts and outside repair would be a concern of the Staff. The Staff pointed out that only the use was under application at this time and not the plot plan.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 710- Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) to locate an automobile repair shop and used car sales lot, as presented and with no outside storage of parts and no outside repair being permitted, in a CS District on the following described tract:

Lot 2, Block 2, South Peoria Gardens Addition to the City of Tulsa, Oklahoma.

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 75' to 50' abutting an R District in an IL District located south and west of 51st Street and Mingo Road.

Presentation:

Jerry Holland, representing Anderson Development Company, advised the Board that the subject property is zoned IL which requires a 75' setback from the R District; however, the lots are not large enough for buildings that are proposed and adequate parking if the setback requirements are met. Assuming the single-family to the south and the multifamily to the north were developed as being used for those purposes, Mr. Holland did not feel that the proposed uses would be a detriment to those developments, as screening is required along the southern, northern and western boundaries of the property. If a 50' setback as requested were approved, there would be less vacant land in the setback area for obnoxious purposes.

Upon questioning, Mr. Holland advised it was his understanding that there had been little or no development in the IL area because the setback has been a problem. He advised he had not seen the property as he was asked to represent the applicant on short notice.

Protests:

Debra Johnson, 9346 East 56th Street, advised the Board that she did not object to the industrial uses, but did not want them located so near her property. She advised of flooding problems in the area and felt that further development might worsen the situation. If the Zoning Code requires 75' of setback, Mrs. Johnson felt that the 75' should be required. Also, she questioned the type of fencing that is required by the Code.

Sherrill Cummings, 9339 East 56th Street, expressed concern with property values because of the type of development that is permitted in the IL District. She noted that the property is not maintained at the present time, as the weeds are waist deep at present. She did not know how the noise and odor would affect the area as the only development in the District is located on the interior of the property.

Joyce Neighbors, 9330 East 56th Street, advised that she had had problems selling her rental property located at 9333 East 56th Street because of the subject property which is not maintained. She questioned when the fence would be erected and what uses are to take place on the property. Also, she questioned who is responsible for the maintenance of the property at present.

Mr. Gardner advised that the screening fence is not required on a lot until the property is developed unless the developer chooses to screen the entire boundary at one time prior to the permits being issued. Mr. Gardner suggested that the properties along the western and northern boundaries adjacent to the cemetery and multifamily developments could be treated in a different fashion from the southern properties. If the Board felt that a waiver of the setback on the south was inappropriate, he felt that the southern lots could be deleted from the

9530 (continued)

application at this time or denied and suggested that a detail plot plan for each lot be submitted to the Board for approval prior to the issuance of building permits.

Board Member Purser agreed with Mr. Gardner's comments in that Lots 23-27 should be handled differently. She pointed out that the applicant had not mentioned a hardship on any lots except for economics which is not considered a hardship by the Board.

Mr. Holland advised that the 75' setback would more than likely be asphalted and the runoff created by the asphalt would be no more than would be created by a structure extending into the 75' area. He did not feel that the residential area would be adversely affected if the variance were granted.

Board Action:

SMITH moved to grant the Variance, deleting Lots 23-27 from the application. This motion dying for the lack of a second,

on MOTION of JOLLY, the Board (4-0) denied application 9530 in an IL District on the following described tract:

Lots 8 through 27, inclusive, Block 1, Commerce Park Addition to the City of Tulsa, Oklahoma.

9531

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Home Dwelling) to locate a mobile home; and a Variance (Section 340 - Requirements for Special Exception Uses in the Agriculture District - Under the Provisions of Section 1670) for a variance of the five-acre minimum for a mobile home in an AG District located south and east of 66th Street North and Lewis Avenue.

Presentation:

Jack Seawright advised the Board that he wanted to place a mobile home on the subject property for five or six years, pointing out he did not know that approval was required until he placed the mobile home on the property. The property is 110' x 110' and will be fenced and used for the mobile home only. Upon questioning, he advised that there are other mobile homes in the area.

Mr. Gardner advised that the property is not located within the moratorium, but felt that the applicant should be aware that the County maps show this property is a potential flood hazard area and his placing the mobile home on the property is at his own risk.

Mr. Seawright advised the Board that he has lived on the property for 25 years and he had chosen this particular portion of the overall tract, because it is the only portion of the property that does not flood.

Protests: None.

9531 (continued)

Board Action:

On MOTION of JOLLY, the Board (4-0) approved an Exception (Section 310- Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Home Dwelling) to locate a mobile home; and a Variance (Section 340 - Requirements for Special Exception Uses in the Agriculture District - Under the Provisions of Section 1670) for a variance of the five-acre requirement for a mobile home, for a period of three years, in an AG District on the following described tract:

Lot 5, Block 5, Stebbins Acres Addition to the City of Tulsa, Oklahoma.

9532

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage requirements from 60' to 50' to permit a lot-split (L-14018) in an RS-3 District located at 740 North Sandusky Avenue.

Presentation:

Thelma Bagwell, 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 SMITH, the Board (4-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage requirements from 60' to 50' to permit a lot-split (L-14018) in an RS-3 District on the following described tract:

East 1/2 of Lot 2, Block 6 Maryland Gardens Addition to the City of Tulsa, Oklahoma.

9533

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) to locate a mobile home in an RM-2 District located in the 6100 Block of West 10th Street.

Presentation:

Harold West requested permission to locate the mobile home on the property for residential purposes on a permanent basis, noting that there are other mobile homes in the area.

Protests: None.

9533

Board Action:

On MOTION of SMITH, the Board (4-0) 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 and subject to customary removal bond, in an RM-2 District on the following described tract:

The S/2 of Lot 3, Block 6, Lawnwood Addition to the City of Tulsa, Oklahoma.

9535

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate a mobile home in an AG District located at 65th West Avenue and West Edison Street.

Presentation:

David Phillips advised that his client would like to place a mobile home on the property for his son for a period of one or two years as he hopes eventually to develop the property for single-family purposes. The property is vacant at the present time.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board (4-0) approved the Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) to locate a mobile home, for a period of two years, in an AG District on the following described tract:

A portion of the S/2 of the NW/4 of Section 5, Township 19 North, Range 12 East of the IBM, Tulsa County, Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit: Beginning at a point 200' East of the NW corner of the S/2 of said NW/4; thence South 330'; thence East 660'; thence North 330'; thence West 660' to the point of beginning.

9537

Action Requested:

Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage and area requirements from 60' to 55' and from 6,000 sq. ft. to 5,665 sq. ft. in an RM-2 District to permit a lot-split (L-14012) in an RM-2 District located at 2543 East 10th Street.

Presentation:

Bill Wilson, 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.

6.2.77:237 (29)

9537 (continued)

Board Action:

On MOTION of PURSER, the Board (4-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the frontage and area requirements from 60' to 55' and from 6,000 sq. ft. to 5,665 sq. ft., to permit a lot-split (L-14012) in an RM-2 District on the following described tract:

The South 103 feet of the East 55 feet of Lot 1, Block 1, Oaks Addition to the City of Tulsa, Oklahoma.

9552

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 20' in an RS-1 District located at 6646 South Indianapolis Avenue.

Presentation:

Gene Carpenter, the applicant, was not present as he was out of state. The Staff submitted the plot plan (Exhibit "L-1") advising that the tract is odd-shaped.

Protests: None.

Board Action:

On MOTION of PURSER, the Board (4-0) granted a Minor Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630) for a variance of the rear yard requirements from 25' to 20', per plot plan, in an RS-1 District on the following described tract:

Lot 7, Block 2, Cedar Creek Subdivision to the City of Tulsa, Oklahoma.

9553

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-14020) in an AG District located southeast of 65th West Avenue and West Edison Street.

Presentation:

Ronald Walker, the applicant, was not present.

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

Protests: None.

Board Action:

On MOTION of SMITH, the Board (4-0) 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-14020) in an AG District on the following described tract:

A tract of ground situated in Lot 4, Section 5, Township 19 North, Range 12 East, Tulsa County, Oklahoma, more particularly described as beginning at a point 350.85' West of the NE corner of said Lot 4, and 40' South of the North line of said Section 5; thence West a distance of 175.55'; thence South 150'; thence East 175.55'; and thence North 150' to the point of beginning.

COMMUNICATION:

This is a Communication (Exhibit "M-1") from Ms. Jonell Singleton, Licensing Service Worker, State Department of Public Welfare, advising that she had spoken with Mr. Pauling, Assistant City Attorney, and had agreed to try and keep better communication lines open between the Board Office and State's Offices. She requested a list of any day care homes which have approved applications of zoning which would inform the State of those persons who have obtained City approval.

Mr. Pauling advised that the letter was speaking to home occupations permitting day care centers in Residential Districts.

The Staff noted that there was no way they could provide a list to the State, feeling that this is information that the State should obtain from their applicants when they file for licenses.

ADDITIONAL REQUEST:

Mr. Jones requested that the Board establish a policy with regard to giving notice within a 300' radius of a property under application.

Mr. Gardner noted that the Staff, in talking with an applicant about advertising, could advise the applicant that if he chooses to surround the property under application with his own property and not notify others, that the Board will continue the application in order that sufficient notice might be given if they feel it necessary at the time the application is to be heard..

On MOTION of JOLLY, the Board (4-0) directed the Staff to put the applicant on notice with regard to the requirement of persons within 300' being notified of a hearing, should the applicant wish to surround the application with his own property.

ELECTIONS:

On MOTION of SMITH, the Board declared Kathy Purser the Chairman by acclamation.

There being no further business, the Chair declared the meeting adjourned at 6:02 p.m.

Date Approved

8/18/77



Chairman