

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 263
Thursday, June 15, 1978, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Jolly Purser, Chairman Smith	Lewis Walden	Bagby Etter (out 3:05 p.m.) Gardner Jones	Jackere, Legal Department Bates, Building Inspector's Office

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, on Wednesday, June 14, 1978, at 8:45 a.m., as well as in the Reception Area of the TMAPC Offices.

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

Minutes:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Smith and Purser voting "aye"; Lewis and Walden "absent") approved the Minutes of May 4, 1978, (No. 259) and May 18, 1978, (No. 260).

UNFINISHED BUSINESS:

9967

Action Requested:

Exception (Section 610 - Principal Uses Permitted in the Office Districts - Section 640 (2) - Special Exception Uses in Office Districts, Requirements) to permit apartments; and a

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the rear yard requirements from 20' to 10'; and a Variance (Section 207 - Street Frontage Required - Under the Provisions of Section 1670) - for a variance of the frontage requirements to a public street, in an OL District, located southwest of 6602 East 30th Street.

Presentation:

Tom McCaslin, the applicant, was present.

Steven Smith, representing the applicant, advised the Board of the zoning classifications on the zoning map, pointing out the back side of the Boman Acres Shopping Center to the west. The applicant owns the property to the immediate east, and there is no access to the subject property other than from 30th Street through property owned by the applicant. The property is presently zoned

OL and it is requested that the application be amended for a duplex exception to an OL District. Mr. Smith further advised that to meet the necessary RM-1 requirements a variance is requested for the rear yard from 20 feet to 10 feet, and the applicant is proposing one duplex with a turn-around drive-through at the northeast corner of the property to serve the duplex lot.

Protests:

Tom Birmingham, the attorney for the protestants, referred to a protest petition with 75 names that was submitted to the Board at the last meeting. He noted the overlap of the lot to the north which when platted did not provide access to the subject property via the residential street. An aerial photo (Exhibit "A-1") was submitted, noting close proximity of the existing driveways and the proposed additional drive. He stated he did not feel an additional access was meant to be created for the proposed development. The applicant purchased the property knowing it was landlocked; the proposal destroys single-family character of the applicant's own property; and the application is protested based on access.

Other Protests: None.

Mr. Smith felt both properties would be desirable for residential use even with the drive as proposed for the duplex. He did not feel OL zoning abutting the back of commercial was suitable with the garbage containers, and did not feel OL would be desirable for utilization. He stated if the property were platted today this lot would be platted residential. He also did not feel that RS-3 would be established today next to commercial. He stated that this would be an ideal solution to a difficult problem.

Tom Birmingham felt the duplex use is better than originally proposed, but access is the problem as the property was not platted to be used for residential with access to the residential streets. He felt if a driveway were provided through the property to the east, the property to the east would be devalued, and that the request is changing the character of the neighborhood. In referring to the aerial photograph, he pointed out a parking lot to the south, and a lot behind the shopping center to the west, and stated that good planning dictates that this lot have access south or west.

Tom McCaslin, the applicant, stated the request is for a common driveway with the drive located on subject property. With regard to access from the south or west, he stated he attempted to purchase an easement for access but the owner to the west was told by the protestants that they would boycott the center if access was provided; and that the property owner to the south wished not to sell an access easement. He stated the petition signatures are not all located in the immediate area, and further does not feel it would be a traffic problem.

Upon questioning by the Board, Mr. McCaslin stated the plan is to attach a drive from the duplex to the drive existing on the single-family lot, with no additional curb cut.

In answer to questioning by the Board regarding a tie contract between the two properties, the Staff stated the only question before the Board is the duplex usage of the OL zoned property and the access into the property.

Tom Birmingham presented a Sketch (Exhibit "A-2") which was given to him as a plot plan, which notes two drives, and stated that the protestants would support access to the west or south; and want no access as proposed.

Kathleen Moore, 2920 South 66th East Avenue, stated that none of the protestants objected to the building of an office building at the shopping center; only the access as proposed.

The Chair noted that there is no map presented to the Board that shows common access via existing drive. Applicant advised he would accept restriction that no additional curb cuts would be provided, or that he would provide a plan showing the one drive. He further stated the property has separate deeds and they are not tied together.

Steven Smith referenced a Deed dated March 1, 1978, BK4313, page 641, and stated that the subject property was split from the property to the west and added to his client's property to the east, and that he felt this tied such property to property to the east, meeting all the lot-split requirements.

Upon questioning by the Board, Steven Smith said the applicant would agree to a tie contract tying the lots together.

Board Action:

On MOTION of JOLLY, amended by SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye", Lewis and Walden "absent") approved an Exception (Section 610 - Principal Uses Permitted in the Office Districts - Section 640 (2) - Special Exception Uses in Office Districts, Requirements) to permit a duplex subject to the applicant signing a tie contract so that the two properties could not be sold separately, and providing combined plot plan showing use of common drive for Lot 7 and Lot 6 with existing access in place, prior to issuance of a building permit; and a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the rear yard requirements from 20' to 10'; and a Variance (Section 207 - Street Frontage Required - Under the Provisions of Section 1670) - for a variance of the frontage requirements to a public street, in an OL District on the following described tract:

9967 (continued)

Beginning at a point 648.30' East and 308.30' North of the SW corner of the SW/4 of the SW/4, Section 14, Township 19 North, Range 13 East, Tulsa County, Oklahoma; thence North and parallel to the West line of Section 14, a distance of 105' to a point; thence West and parallel to the South line of Section 14, a distance of 80' to a point; thence South and parallel to the West line of Section 14, a distance of 105' to a point; thence East and parallel to the South line of Section 14, a distance of 80' to the point of beginning and containing 0.193 acres, more or less.

9983

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 on a corner lot from 30' to 15' in an RS-2 District located on the SE corner of Florence and 85th Place.

Presentation:

Applicant was not present.

Protests: None.

Board Discussion and Action:

The Chair pointed out that at the last meeting the motion was to approve, but lacked a second. Mr. Lewis of the Board asked that this case be continued so that the Board members could look at the property due to lack of information on lots to the north of the subject property.

The Board agreed to continue this application to July 6, 1978. The applicant will be notified.

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") continued application #9983 to July 6, 1978, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

NEW APPLICATIONS:

9998

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) for permission to use an accessory building for a book binding business; and a

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the rear yard requirements in an RS-3 District located on the SE corner of 14th St., and 75th East Avenue.

Presentation:

Bob Bollinger, the applicant, stated that he had resided on the subject property 12 years and that the cement block building was on the property when he purchased it. He stated he has operated a book binder shop on the subject property for one year and did not understand it was illegal for he and his wife to operate from a structure. He stated that customers advised him that approval is required. He stated that a neighbor does not particularly like the operation but he has received complaints from no one. He submitted a letter of support with 9 signatures (Exhibit "B-1"). He submitted a Plat of Survey (Exhibit "B-2") showing a small loading dock and more area for working. He stated there were one or two pick-ups a day and that there would be no more traffic than there would be if the structure were rented for living purposes.

Upon questioning by the Chair, the applicant stated the expansion will look like a residential structure and there will be no noise. The Chair pointed out the petition letter stated approval was required each year. The Code does not require approval each year, but the Board could require yearly approval. The applicant stated he has cedar siding on his residential structure; but he did not plan to side the expansion, but would consider it. He stated he would agree to cedar siding if the Board desires.

Protests:

Bert Stanford, 7516 East 14th Street, stated he is the applicant's closest neighbor and that his home is next to the structure, and is one of the first out in the area 27 years ago. He stated he has talked with the applicant many times, and cannot see industry in the residential area so near his home. He stated the accessory building was constructed many years ago and was placed too far to the north and blocks the view of his structure. He advised he would build a new structure on the center of the property if they would locate the operation somewhere else. He stated this is a noisy business as machines are located in the structure. He added the business began as part time, a small operation; but it is a full time larger operation now. Mr. Stanford suggested to the applicant that he build a cedar structure behind the building line and that he would help tear down the existing structure, adding that he wanted to complement the neighborhood rather than detract. He stated there was additional help in the business before Christmas, and that the applicant wants to go from a 600+ to a 2,000 square foot plus operation. This is too large for a residential area, and added there are problems with others blocking his drive.

Douglas Chisum, 1412 South 76th East Avenue, stated he agrees with statements of previous protestant. He received no notice of the application; did not know he operated a business as it is quiet. He stated he would like the neighborhood to remain quiet, and does not want to see expansion.

Upon questioning by the Chair, Mr. Chisum stated he recently moved into the area. The Chair noted that counsel had advised the Board

9998 (continued)

that his being present was an indication that he received notice of some kind, and added that the Court House records are not up to date in all instances.

Upon questioning by the Board, the applicant stated he will not employ helpers. His sister-in-law helped once but he was not aware he could not have help. He stated his daughters will help out. He stated the present structure is 650 square feet and with the addition he would have approximately 2,000 square feet. He also stated he does not have as many as 5 deliveries -- only 1 or 2 and sometimes doesn't have any; and added that he takes small jobs that he and his wife can undertake themselves. Upon questioning by the Chair, the applicant stated that if the operation grows he could move to an industrial site and utilize the structure for apartments as does Mr. Stanford. He further answered this is the sole employment of himself and his wife.

Mr. Stanford stated he is concerned with the future and what it might hold. He said he would accept limitations to keep the operation small

Mr. Jolly, of the Board, stated that the Code provides for a home operation demonstrated; but when a business grows to the point where you must add on to the present facility it should be located in the proper zoned area.

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - (Section 440 (2) - Home Occupations) to use an accessory building for a book binding business for a period of one year in the present structure; and denied a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the rear yard requirements in an RS-3 District on the following described tract:

Lots 23 and 24, Block 15, Eastmoor Park Addition to the City of Tulsa, Oklahoma.

9999

Action Requested:

Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback requirements from 50' to 30'6" from the center-line of Denver to permit a pole sign, in a CS District located at 1430 South Denver; and a

Variance (Section 280 - Structure Setbacks from Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback requirements from 50' to 30'6" from the center-line of 11th Street to permit a pole sign, in a CH District located at 3222 East 11th Street.

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Board Action:

On Motion of Smith, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent" approved a Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback requirements from 50' to 30' 6" from the center-line of Denver to permit a pole sign in a CS District and a Variance (Section 280 - Structure Setbacks from Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback requirements from 50' to 30' 6" from the center-line of 11th Street to permit a pole sign, in a CH District per plot plan and per execution of removal contract on the following described tract:

Lots 1, 2, & 3, Block 3, Campbell Addition to the City of Tulsa, Oklahoma.

The East 60' of Lot 1, Block 2, Eastlawn Addition to the City of Tulsa, Oklahoma

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Hawell

Presentation:

Robert Tips, Attorney representing the Quik Trip Corporation, stated the new QT signs would not overhang the sidewalks, as the present ones do, but would be outside the major street setback line, as per the plot plan of the Denver location (Exhibit "C-1") and the plot plan of the 11th Street location (Exhibit "C-2").

Upon questioning by the Board, Mr. Tips stated the applicant would be willing to sign removal contracts, as required.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback requirements from 50' to 30'6" from the center-line of Denver to permit a pole sign, in a CS District per plot plan and per execution of removal contract on the following described tract:

*Legal Amended
9/7/78
Hornell*
Lots 1, 2, 3 Block 3 Campbell Addition to the City of Tulsa, Oklahoma.
The East 60' of Lot 1, Block 2, Eastlawn Addition to the City of Tulsa, Tulsa County, according to the recorded plat thereof.

10000

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) a request for 20' of frontage on two tracts as per plot plan, in an RS-1 District located south of 71st Street and east of College Avenue.

Presentation:

Fred Nelson, Attorney and applicant, referred to the Plat of Survey and Legal Descriptions (Exhibit "D-1") and stated this lot-split involves a 4-1/2 acre tract with no access to the south - the south boundary borders a condominium development. He stated the tract is to be developed into only four lots, and the only convenient way to provide access is a drive in from 71st to serve the four lots. He added the property is very valuable and in an expensive area.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 430 - Bulk and Area Requirements in Residential District - Under the Provisions of Section 1630 - Minor Variances) to permit 20' frontages to have two tracts per plot plan, in an RS-1 District on the following described tract:

A tract of land, containing 4.5520 acres, in the NE/4 of the NE/4 of Section 8, Township 18 North, Range 13 East, Tulsa County, Oklahoma, said 4.5520-acre tract of land being

10000 (continued)

described as follows, to-wit: "Beginning at a point" on the Northerly line of said NE/4 of the NE/4, said point being 242.57' Easterly of the Northwestern corner thereof; thence South 3°-55'-20" West for 35.08' to a point that is 35' South-erly of said Northerly line and said point also being 270.25' Easterly of the Easterly right-of-way line of South College Avenue; thence continuing South 3°-55'-20" West for 85.18' to a point of curve; thence Southwesterly along a curve to the right, with a radius of 198.43' and a central angle of 24°-27'-19", for 84.69' to a point of tangency; thence South 28°-22'-39" West for 123.62'; thence North 65°-22'-21" West for 19.12'; thence South 28°-22'-39" West for 0.00' to a point of curve; thence Southwesterly along a curve to the left, with a radius of 175' and a central angle of 17°-57'-51", for 54.87'; thence South 82°-06'-00" East for 252.57'; thence South 21°-17'-00" East for 255.60' to a point on the Northwestern line of "Guier Woods", an addition to the City of Tulsa; thence North 52°-00'-33" East, and along said Northwestern line, for 156.37'; thence North 2°-20'-30" West, and along a westerly line of "Guier Woods", for 209.50'; thence Due East and along the Northerly line of "Guier Woods", for 205.00'; thence North 36°-44'-07" West for 257.03'; thence North 63°-04'-07" West for 95.70'; thence North 46°-38'-38" West for a distance of 103.46'; said distance being heretofore called 105.38' in some instruments; thence Westerly for 222.46' to the "point of beginning" of said 4.5520-acre tract of land.

10002

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements on a corner lot from 25' to 15' on Lot 1, Block 14; and from 25' to 14' on Lot 8, Block 13, in an RS-3 District located at 36th Street and 139th East Place.

Presentation:

Craig Warner, the applicant's son, stated by reason of the odd shaped lots, a variance is requested on the east side of Lot 1, Block 14. The subject property is restricted by a utility easement through the center of the lots which forces building the two homes on the front half of the properties.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements on a corner lot from 25' to 15' on Lot 1, Block 14; and from 25' to 14' on Lot 8, Block 13, in an RS-3 District on the following described tract:

Lot 1, Block 14; and Lot 8, Block 13, Summerfield Addition to the City of Tulsa, Oklahoma.

10003

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to permit an industrial linen supply and laundry to continue operating, per plot plan, in a CS District located at 6614 East King Street.

Presentation:

Floyd J. Hamrick, the applicant, advised that the area was unplatted at the time the shopping center was built. He stated the former cleaning establishment moved from the subject location 3 years ago, after which he began to operate his laundry facility in that same location. He requested Board approval to continue to operate his commercial cleaning operation which, he pointed out, is not a dry cleaning operation or laundromat.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to permit an industrial linen supply and laundry to continue operating, per plot plan and as presented in a CS District on the following described tract:

The South 120' of the NW/4, NW/4, SW/4, less the West 40' thereof; in Section 35, Township 20 North, Range 13 East, Tulsa County, Oklahoma.

10004

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplex Dwelling) for permission to erect duplexes in an RS-3 District; and a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements from 85' to 75' from the center-line of 61st Street; and a Variance (Section 440 - Special Exception Uses In Residential Districts, Requirements - Under the Provisions of Section 1670) of the square footage in an RS-3 District; and request for a variance of the frontage requirements to permit a lot-split, in an RS-3 District located at the NW corner of 61st Street and Rockford Avenue.

Presentation:

Craig Heidinger, the applicant, advised the Board that he was requesting a waiver of the frontage requirement from 60' to 20'; a waiver of the setback easement from 85' to 75' due to additional right-of-way dedication for 61st; and a variance of the square footage from 9,000 to 8,700, 8,550 and 8,400 on the three lots upon which duplexes are proposed per plot plan (Exhibit "E-1").

10004 (continued)

Mr. Gardner pointed out that the RS-3 District requires 75' of frontage and 9,000 square feet for duplex construction while duplex usage requires only 60' frontage and 6,900 square feet in an RD District. Also, he noted that an existing duplex structure is located on Tract 3 of the Staff map, and upon questioning Mr. Heidinger advised that the duplex proposed on Tract 2 would fairly well align with the existing duplex on Tract 3.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved per plot plan submitted an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1207 - Duplex Dwellings) for permission to erect duplexes in an RS-3 District; a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements from 85' to 75' from the center-line of 61st Street; and a Variance (Section 440 - Special Exception Uses in Residential Districts, Requirements - Under the Provisions of Section 1670) of the square footage in an RS-3 District; and request for a variance of the frontage requirements 60' to 20' per lot-split (L-14359) in an RS-3 District on the following described tract:

The South 15' of the East 25' of Lot 31; and the South 150' of Lot 32, Southlawn Addition to the City of Tulsa, Oklahoma.

10005

Action Requested:

Variance (Section 330 - Bulk and Area Requirements in the AG District - Under the Provisions of Section 1630 - Minor Variances) for a Variance of the Bulk and Area Requirements, to permit a 3-tract lot-split in an AG District located north and east of 116th Street North and Mingo Road.

Presentation:

The applicant was not present. Upon questioning by the Chair, the Staff stated this is a minor variance of a lot-split which was approved by the TMAPC.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 330 - Bulk and Area Requirements in the AG District for a Variance of the Bulk and Area Requirements) to permit a 3-tract lot-split (L-14360) in an AG District on the following described tract:

The North 440' of the West 496' of the N/2, N/2, SW/4 of Section 6, Township 21 North, Range 14 East, Tulsa County, Oklahoma.

10006

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agricultural District - Section 1209 - Mobile Homes) for permission to maintain a mobile home in an AG District for a period of five years located at 5145 East 111th Street.

Presentation:

Applicant was not present. On the applicant's behalf, Beth Hammond advised that a previous permit at this location expired in 1977; and that the ownership is the same as before. Upon questioning by the Chair, John Bartlett who owned and maintained a mobile home on the property before the previous permit expired, wishes to place a mobile home at this location; to Ms. Hammond's knowledge there is not a mobile home on the property at the present time. Upon questioning by the Board, it is the intent to maintain the location as rental property only; there are no other mobile homes in the area.

Mr. Gardner answered to further questioning by the Board that the primary reason for the 5-year limitation in the first place was there are no mobile homes in the area; there are very large homes in a fairly new subdivision and other homes are being constructed to the east and north on large lots in a subdivision; and a time limit should definitely be placed on the subject property.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1209 - Mobile Homes) for permission to maintain a mobile home in an AG District for a period of two years on the following described tract:

The SE/4, SE/4, SW/4 of Section 27, Township 18 North, Range 13 East, Tulsa County, Oklahoma.

10007

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) for permission to operate a home beauty shop in an RS-3 District located at 1916 West 47th Place.

Presentation:

Phyllis Lorton, the applicant, advised she is requesting permission to utilize the garage at her residence for a beauty shop. She stated she has operated a beauty shop in a shopping center for the past 13 years. Upon questioning by the Board, Mrs. Lorton stated her patrons will be scheduled by appointment during the week, Tuesday through Saturday, during the hours of 8 a.m. to 5 p.m. She stated she has read the rules of a home occupation; there will be no sign; and no additional employees will be hired.

6.15.78:263(11)

Protests:

Fred Long, 1922 West 47th Place, advised he resides next door. The area is residential with cars being parked on both sides of the street and he is concerned with his property being devalued and the welfare of the neighboring children if the traffic is increased by a business being allowed in the residential area. Upon questioning by the Chair, the applicant has a double car garage, there being room for two cars to be parked in her double driveway.

Mike Boeing, 1929 West 47th Place, advised he agrees with statements of previous protestant; would rather the neighborhood remain residential, and that the traffic not be increased by a business being allowed in the residential area.

Upon questioning by the Chair, the applicant advised she wishes to move her beauty shop from the shopping center due to overhead; and that she attempted to purchase a home beauty shop on West 48th Street, however, her bank would not meet the appraisal price. Ms. Lorton also stated she possibly will lose some patrons since they walk to her present location. The Chair noted that there could be a parking problem if there are more than two patrons in the shop at one time. Ms. Lorton stated that many of the patrons don't drive themselves and are brought to the shop by their husbands.

Mr. Long stated that many people are in business for themselves and have overhead to contend with; feels that a residential area is not designed for business, and is concerned about future business coming into the neighborhood.

Board Action and Discussion:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (2) - Home Occupations) for permission to operate a home beauty shop in an RS-3 District, subject to the hours of operation being from 8 a.m. to 5 p.m.; subject to all the rules of a home occupation; and subject to the applicant encouraging clientele to use her driveway and not park in the street.

It was noted by the Board that most home occupation beauty shops are on a part time basis, and this applicant will be operating a full time business. With this in mind SMITH added to the MOTION the restriction that permission be granted for a period of one year to run with this owner only, on the following described tract:

Lot 14, Block 8, Hill Haven Addition to the City of Tulsa, Ok.

10008

Action Requested:

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

Presentation:

Harold West, the applicant, stated he will live in the existing mobile home. He added there are three other mobile homes in the area. Upon questioning by the Board, the applicant stated he plans to build on the property "in time".

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) for permission to maintain a mobile home in an RM-2 District for a period of one year with removal bond required, on the following described tract:

The South Half of Lot 3, Block 6, Lawnwood Addition to the City of Tulsa, Oklahoma.

10009

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1202 - Area-Wide Special Exception Uses) for permission to use property for airport use; and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts) to permit building within 87' from the center-line of Sheridan Road, in an IL District located at 3000 North Sheridan Road.

It was noted by Casper Jones that the action requested includes a Variance of the setback requirements from the center-line of Sheridan and advised this was advertised, but when the Case Report was written up the request was left off.

Presentation:

Van Eaton, representing Stan Bernstein of Continental Airways and Lee Butler of Allied Construction referenced the description of the tract (Exhibit "F-1"), and stated that Mr. Bernstein owns Hangar 19 located 94' back from the section line. A storage area built onto the Hangar would bring the nearest corner to the proposed addition to within 63' of the section line. This addition is requested in order to house two private planes and various airplane parts belonging to Mr. Bernstein. Mr. Eaton added there are other structures in the immediate vicinity that are closer to the section line than the proposed addition. Upon questioning from the Chair, the section line is North Sheridan. Upon questioning from the Board, the property is owned by Mr. Bernstein, President of a private air transport company, which also deals in engine parts, tears down old DC-8's and sells the parts.

6.15.78:263(13)

10009 (continued)

Protests: None.

Staff Comments:

Mr. Gardner noted if this is private property it still requires the exception in the IL District; the record states the owner is Tulsa Airport Authority, but if that is incorrect it still can be approved by an exception.

Board Action:

Upon MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1202 - Area-Wide Special Exception Uses) to use property for airport use; and a Variance (Section 930 - Bulk and Area Requirements in the Industrial Districts) to permit building within 87' from the center-line of Sheridan, per plot plan submitted, in an IL District, on the following described tract:

A tract of land in Section 23, Township 20 North, Range 13 East, Tulsa County, Oklahoma; being particularly described as follows:

Beginning at a point 1,117.2' South and 60.0' East of the NW corner of Section 23, Township 20 North, Range 13 East, Tulsa County, Oklahoma. Proceeding thence South 59°-53'-33" East a distance of 285.65' to a point; thence South 30°-09'-57" West a distance of 282.96' to a point; thence North 56°-47'-18" West, a distance of 117.74' to a point; thence North 1°-08'-18" West, a distance of 323.52' to the point of beginning. All of which describes a tract of land encompassing 1.31 acres, more or less.

10010

Action Requested:

Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) for a modification of the fencing requirements on the west and east boundary lines; and a Variance (Section 630 - Bulk and Area Requirement in the Office Districts - Under the Provisions of Section 1670 - Variances) of the front setback requirements; and a Variance of the 25% floor area ratio; and for a variance to permit a two-story building in an OL District located at 5525 East 71st Street.

Presentation:

David Loeffler, Jr., Attorney for T & W Investment Properties, advised the Board of the surrounding zoning classifications, pointing out that the subject property is the last remaining single-family residence in the area, bordered on the west by property that is not zoned, but developed as a Bell Telephone facility. To the north and east of the property will be apartments, and directly east of the subject property will be the clubhouse of the apartment complex. He stated the applicant is requesting a waiver of the fence on the west line, adding that

10010 (continued)

the apartment complex will install a partial fence on the east line, leaving the rest of the property in its natural state. If the City takes an additional 25-foot easement from the center of the road, it is requested that the 60-foot setback requirement be waived to 38 feet; the floor area ratio will run 39% instead of 25%.

Referring to the Site Plan (Exhibit "G-1") Mr. Loeffler stated that the proposed structure will hold operational equipment and will be of the same construction as the apartment buildings next to it. Upon questioning from the Board Mr. Loeffler agreed to submit a copy of the architect's drawing to the Board. Mr. Loeffler continued by saying the structure will also be owner-occupied. He also said the parking ratio requirement will be met whether the City takes the 25-foot easement or not; 20 spaces is the requirement, and Mr. Loeffler pointed out there will be 29 to 40 or 45 parking spaces.

On questioning from the Board, Mr. Loeffler clarified that regarding the setback requirement from 71st Street, the parking lot will be 38 feet instead of 60 feet as per the architect's drawing. As to the building, a waiver of 11 feet is being requested.

Mr. Gardner pointed out that the Board's ruling should not be based on using any parking spaces in the additional right-of-way; the applicant must meet the minimum parking requirement after dedication.

Protests: None.

Board Action:

Upon MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 250.3 - Modification of Screening Wall or Fence Requirements) for a modification of the fencing requirements on the west and east boundary lines; and a Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1670 - Variances) of the front setback requirements; and a variance of the 25% floor area ratio; and for variance to permit a two-story building in an OL District, as per plot plan submitted and per the presentation (no waiver of off-street parking, applicant required to dedicate additional right-of-way in platting), on the following described tract:

Beginning 330' East of the Southwest corner of the SE/4 of the SW/4; thence East 140'; thence North 207'; thence West 140'; thence South 207' to the point of beginning in Section 3, Township 18 North, Range 13 East, City of Tulsa, Tulsa County, Oklahoma, commonly known as 5525 East 71st Street.

10011

Action Requested:

Variance (Section 1221.5 (2) (a) - and Section 1221.3 (a) - Business Signs and Outdoor Advertising - Under the Provisions of Section 1670-

Variances) to permit an outdoor sign closer than 40' from an R District; and a variance of more than one ground sign over 1.5 square feet of display surface, in a CS District, located at 3866 South Sheridan Road.

Presentation:

Bill Stokely, the applicant, submitted a photograph (Exhibit "H-1") as the results of the Board's last favorable decision and stated the property owner has had numerous comments that the property has been improved by the sign being installed at 51st and Yale. Mr. Stokely also submitted a photograph (Exhibit "H-2") of the proposed site pointing out the location of the proposed sign. He noted the Tulsa Scottish Rite building with a sign to the west of the proposed sign as being in a residential area; and stated a variance from 40' to 6' from a residential area is requested; and a variance from 1.5 square feet to which will be built so as not to block the Scottish Rite sign in any way.

Upon questioning from the Chair, Mr. Stokely stated the square footage of the single-faced sign will be 672 square feet, 14' x 48' and 39' high. Upon questioning from the Board, the Exhibited "H-1" photograph is a comparable sign with the same dimensions.

Upon questioning from the Chair, Mr. Gardner stated that approval of the 51st and Yale sign was based on removal of signs. Mr. Stokely pointed out there is a free-standing sign in the subject area which prevents the use of the 2.5 square feet. It was pointed out that if the applicant could use Sheridan and Skelly Drive he would only be permitted 597 feet, 75 square feet over and above what is requested.

Protests: None.

Board Action:

Upon MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 1221.5 (2) (a) - and Section 1221.3 (a) - Business Signs and Outdoor Advertising - Under the Provisions of Section 1670 - Variances) to permit an outdoor sign closer than 40' from an R District; and a variance of more than one ground sign over 1.5 square feet of display surface, in a CS District as presented, subject to the Board being submitted an accurate plot plan prior to building the sign, on the following described tract:

A tract of land, containing 0.913 acres, in the NE/4 of the SE/4 of Section 22, Township 19 North, Range 13 East, Tulsa County, Oklahoma, said tract being described as follows; to-wit: Starting at the SE corner of said NE/4 of the SE/4; thence North along the East line of Section 22 for 150.74'; thence West at a right angle for 50' to the point of beginning of said tract, said point of beginning also being on the Northerly right-of-way line of the U. S. Highway #66 Bypass; thence North and parallel to the East line of Section 22, for 200'; thence West at a right angle for 150'; thence South at a right angle, and parallel to the East line of Section 22, for 330.16' to a point on the

10011 (continued)

Northerly right-of-way line of the U. S. Highway #66 Bypass; thence Northeasterly along said right-of-way line for 198.60' to the point of beginning, Tulsa County, Oklahoma, according to the U. S. Survey thereof.

10013

Action Requested:

Variance (Section 620 (d) (1) - Accessory Uses Permitted in the Office Districts. Under the Provisions of Section 1670 - Variances) to permit two 3' x 12' double-face illuminated ground signs in an OM District located southeast of 66th Street and Memorial Drive.

Presentation:

Lynn Meyer, Attorney for Woodland Bank, advised the subject signs are to be located at the entry of the Bank for identification purposes, per Site Plan (Exhibit "I-1"). Upon questioning by the Chair, Mr. Meyer stated the proposed signs measure 3' x 12' per drawing (Exhibit "I-2") are very attractive and unobtrusive; are located at the back part of the Bank about 300 feet away from Memorial Drive.

Mr. Gardner noted there are three street frontages, permitting 32 square feet and three different signs. The applicant is requesting a variance of 4 square feet for each of the two signs; therefore the actual footage is less.

Protests: None.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 620 (d) (1) - Accessory Uses Permitted in the Office Districts - Under the Provisions of Section 1670) to permit two 3' x 12' double-face illuminated ground signs (constant light) in an OM District per plot plan submitted, on the following described tract:

Lot 1, Block 3, Woodland Hills Mall to the City of Tulsa, Oklahoma.

Action Requested:

Variance (Section 130 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the side yard requirements from 10' to 5' in an RS-2 District located at 3140 South Victor Avenue.

Presentation:

Charles Gotwals, attorney representing the applicant, submitted a plat of survey (Exhibit "J-1") noting the dimensions of the property and the structure on the subject property. He noted that the proposed site plan (Exhibit "J-2") will extend within 5 feet of the south property line at the extreme southwesterly corner of the structure. He stated the house was originally built to parallel the street line (lot is on a curve) rather than the side lot lines. Mr. Gotwals submitted seven photographs (Exhibit "J-3") stating the applicant has no objection to maintaining an opaque fence as a screen between his property and his neighbor's garage to the south. Mr. Gotwals referred to the protest petition letter and stated of the 20 property owners represented that 8 people live as much as two blocks away from the subject property. He stated that the addition to the house will hardly be noticeable from the street and will hardly be noticeable from the property to the south as long as the proposed screening fence is maintained as indicated, and further that the addition will cause no detriment to the neighborhood. Mr. Gotwals submitted a letter in support of the addition from Michael S. Forsman, who also lives in the Bren Rose Addition (Exhibit "J-4").

Protests:

George Owen, attorney representing Mrs. Springfield who resides immediately south of the applicant, submitted a protest petition (Exhibit "J-5") signed by 29 residents of the Bren Rose Addition. Mr. Owen stated that according to the Plans the projection on the south wall will be a small patio and the part that protrudes over the side lot area is to be a bathroom. He questioned why the bathroom can't be moved around to the west or to the north of the addition to the house, thereby maintaining the Zoning Ordinance building setback for a side lot line and making no real change in the structure itself. He further stated it seems unnecessary to be in violation of the Zoning Code while according to the Plans it would be quite easy to move the bathroom to the back of the house. He stated it is simply the wish of the protestants to maintain the literal enforcement of the Zoning Code in the Bren Rose area unless unnecessary hardship is displayed. He stated that the Bren Rose Addition is three blocks long and three blocks wide with limited access on the north and the west.

Mr. Gotwals referred to the protest signatures as being 14.7% of the residents of the Bren Rose Addition. He stressed that the point of closest contact is the proposed bathroom to the neighboring garage. He stated the reason for the addition being placed on the south of the property is to protect the roof line and to place the addition elsewhere would look added on.

10014 (continued)

Mr. Owen stated that the purpose of the protest petition was merely to show that more people were concerned than just Mrs. Springfield. He stated there are a number of ways that the encroachment can be presented and maintain the basic structure of the property, and it is felt that the proposed structure is to satisfy an architectural concept. It is felt that the bathroom should be moved.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the side yard requirements from 10' to 5' in an RS-2 District, subject to a screening fence to be erected between the two properties on the following described tract:

Lot 21, Block 7, Brer Rose Addition to the City of Tulsa, Okla.

10015

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for permission to use property for church use, and parking; an Exception (Section 250.3 (d) - Modification of the Screening Wall or Fence Requirements) for permission to remove the screening requirement where the purpose of the screening cannot be achieved; and 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 35' to 24' or 49' from the center-line of the street; and a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural and Recreational Facilities) for a variance of the on-site parking requirements, in an RS-1 District, located northeast of 9th Street and Memorial Drive and southeast of 9th Street and 83rd East Avenue.

Presentation:

Staff Member Jones requested a continuance because of insufficient notice and stated that a new notice would be published and mailed out.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") continued application 10015 to July 6, 1978, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

10016

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) for a variance of the side yard requirements from 10' to 0' in an RS-1 District located at 3442 South Atlanta Place.

Presentation:

J. W. Pielsticker, the applicant, advised the variance is requested in order to build a carport, per plot plan submitted (Exhibit "K-1"). Upon questioning by the Chair, the residence to the north is in the middle of the property; the applicant is converting his garage to a room adding a fireplace, and extending a carport to the north, per detailed drawing (Exhibit "K-2"). The applicant stated the only neighbor involved is to the north and he is in agreement to the variance. Upon questioning by the Board, the neighbor to the north will sign a letter of agreement.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the side yard requirements from 10' to 0' in an RS-1 District, per plot plan submitted and subject to the Board receiving a letter of approval from the neighbor to the north, on the following described tract:

Lot 4, Block 4, Oakview Estates Addition to the City of Tulsa, Oklahoma.

10017

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements on the rear from 25' to 13'; and a Variance of the side yard from 25' to 10' in an RM-3 District; and a Variance (Section 1208.4 - Off-Street Parking Requirements - Under the Provisions of Section 1670) of the parking requirements in an RM-3 District, located SW of 8th Street and Wheeling Avenue.

Presentation:

On behalf of her father N. D. Henshaw and The Center for the Physically Limited, Jeanine VanValkenburg advised that the Center is planning to build an apartment for people with physical limitations. She advised that the zoning of the property involved was changed from IM to RM-3, based upon the plan to build this apartment. In referring to a map (Exhibit "L-1") a variance of the side yard from 25' to 10' is being requested for parking purposes on the major part of the north side and a portion of the east side; located to the immediate west of the property is the Center; and located to the south is a City Park for the Physically Limited; pointing out the SW corner of the map as being the only property surrounding the

subject property which is owned by a third party. It is also requested that the rear setback requirement be reduced from 25' to 13' to allow for a small portion of the building going beyond the 25' requirement. She also pointed out the area immediately to the north of the third party property will have a 32' setback. It is also requested that the parking requirement be reduced to 70 spaces since most of the apartment residents do not drive and will be utilizing the bus services for their activities. Ms. VanValkenburg stated that the Center owns and utilizes the old Jefferson School located to the immediate north of the property.

Upon questioning by the Board, except for the park and the one piece of property in the SW corner, all the property is owned by Physically Limited.

Interested Party:

Thelmarie Guinn, 744 South Wheeling, who owns two pieces of business property to the north of the subject property, stated she is not protesting the application, is merely concerned regarding on-street parking since the entire north side of Jefferson School is zoned no-parking. The Chair informed that the variance in question regards parking spaces on the subject property that are required by the City when a building is built.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved as presented, a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements on the rear from 25' to 13'; and a Variance of the side yard from 25' to 10' in an RM-3 District; and a Variance (Section 1208.4 - Off-Street Parking Requirements - Under Provisions of Section 1670) of the parking requirements in an RM-3 District, per plot plan submitted with parking spaces reduced to 70, on the following described tract:

Beginning at a point 52.16' West of the NE corner of Lot 14, Block 3; Clover Ridge Addition; thence South to South line of said Lot 14, Block 3; thence East along the South line of Lots 14, 13 and 7, Block 3 to the SE corner of said Lot 7; thence North 100' to the NE corner of Lot 8; thence West 68'; thence North 45° West to a point that is 154' South of the North line of Block 3; thence West to a point that is 100' East of the point of beginning; thence North 154' to the North line of Block 3; thence West 100' to the point of beginning, Tulsa County, Oklahoma.

10018

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins; and Section 1219 - Hotel, Motel and Recreational Facilities) for permission to use property for a restaurant, dance hall, night club, cabaret, special entertainment, dancing and private club in an IL District located on the NW corner of Brady Street and Boulder Ave.

Presentation:

Robert Tips, Attorney for the applicant, advised that Mr. Mayo plans to turn the municipal theater into a night club with a dance floor, entertainment, and may in the future build a restaurant, and will apply for a private club license. He added that negotiations are presently being undertaken to purchase property directly west of the former municipal theater which is owned by the Carnation Company to be utilized for parking. Also being negotiated is for leasing of property on the NW corner of Boulder and Cameron for parking.

Protests: None.

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved an Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1212 - Eating Places Other Than Drive-Ins; and Section 1219 - Hotel, Motel and Recreation Facilities) for permission to use property for a restaurant, dance hall, night club, cabaret, special entertainment, dancing and private club in an IL District, on the following described tract:

Lots 2, 3, and 4, Block 30, Original Townsite of Tulsa, Tulsa, Oklahoma.

10027

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) of the rear yard requirements from 25' to 20' in an RS-2 District, located at 3422 East 56th Place.

Presentation:

Howard Kelsey of Lakewood Homes, representing Russell Dexter, requested that the back line be changed from 25' to 20' to make possible the 16' x 30' addition to his existing home.

Protests: None.

On questioning by the Board, the applicant stated that the hardship is due to the shape of the lot and the shape of the existing roof.

Board Action:

On MOTION of SMITH, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") approved per plot plan submitted a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) of the rear yard requirements from 25' to 20' in an RS-2 District, on the following described tract: Lot 8, Block 4, Lou North's Woodland Acres to the City of Tulsa, Oklahoma.

6.15.78:263(22)

OTHER BUSINESS:

Communication Concerning Case No. 9593

Action Requested:

Reinstatement of building permit, per letter dated June 13, 1978 addressed to the Board of Adjustment from the applicant.

Presentation:

Floyd Roberts, the applicant, advised the Board that through error he missed the May 18 meeting and was under the impression the Board met once a month. He stated it was not his intention to circumvent the decision of the Board, and that he felt that when he received approval to build the duplex he had general approval that wasn't tied to any specific design. He further stated that he felt he had met the requirement to submit a plot plan when he submitted the plan to the Building Inspector's Office and flagged the fact that it had Board of Adjustment action on it. He asked that his building permit be reinstated and said he would be willing to do what is reasonable to screen the duplex since it is the Board's feeling that the visual site of the duplex is not pleasing.

Mr. Smith of the Board pointed out the original presentation was that the structure would be one-story, and it was built two-story; the applicant addressed that.

Mr. Roberts stated that he advised the Board at the presentation the structure would be a minimum of 1,000 to 1,100 square feet. He added the structure is now complete and looks better than while under construction in April when the Board refused approval. Mr. Smith stated he had seen the structure since completion and does not feel it enhances the neighborhood.

Mr. Jolly of the Board noted that counsel had, on many occasions, advised that a case once closed could not be reopened - the only recourse was for the Board to recind the motion for denial or for the applicant to appeal the Board's decision to District Court within ten days after action of the Board.

Mrs. Bates of the Building Inspector's Office noted the applicant was given a cease and desist at one time.

Mr. Jackere pointed out the Legal Department was to study the matter which has not been undertaken to date. He suggested to Mr. Roberts that he come to the Board and make his feelings known. Legal Department has not determined what is the appropriate action to be taken.

Mr. Gardner stated that with the approval action being revoked, the applicant is in a position of not getting permanent financing since they will require that approval of the Board be optional.

Mr. Jolly suggested that the Board no longer discuss the Case until advice is received from Counsel.

Mr. Jackere felt any further action would be taken by the City after a determination was made by the Legal Department.

The Chair advised that the Board await advice of Counsel.

Setbacks From Streets, Highways, Expressways, and Service Roads

Action Requested: Legal opinion.

Presentation:

Mr. Jackere stated that since highways and expressways are zoned residential, there is a setback requirement in addition to ordinary setback requirements from an abutting R District. In reviewing Section 280 of the Zoning Code, Mr. Jackere cited as examples setbacks from I-244, I-44 and from Broken Arrow Expressway. It may be argued that an additional setback is required under Section 1221.3A which provides that no business or outdoor advertising signs shall be located within 40 feet of an R District. In Counsel's opinion the R Districts were designed to permit the development and conservation of a variety of dwelling types and surely the same cannot be said of highways and expressways designated as Residential on our comprehensive zoning maps. And further, it is the opinion of Counsel that the intent of Section 1221.3A was to protect present and future residential development from intrusions by outdoor advertising and signs; if the Board feels it necessary to protect expressways and highways from such intrusions an appropriate setback requirement could be adopted as an amendment to the Code. With regard to building setbacks along the expressways and highways, Section 330 and various other sections of the Zoning Code contain street setback requirements in addition to the requirements of Section 280. In effect, they provide for varying degrees of additional setback depending upon the zoning designation of the particular property upon which the building is to be constructed and upon whether the abutting street is an arterial or not an arterial street. An arterial is defined in Section 1800 of the Code as a street designated on the Major Street Plan as a primary arterial or secondary arterial. The Major Street Plan designates expressways and highways as freeways and as such, they are not arterials, and the "not an arterial setback" would technically be applicable. Furthermore, Zoning Ordinances are in derogation of the common law and operate to deprive an owner of property of a use thereof which would otherwise be lawful, and should therefore be strictly construed in favor of the property owner. Confronted with the question of whether the arterial or not an arterial setback is applicable where the property abuts a freeway it is the feeling of Legal Counsel that a court would construe the setback requirements in favor of the property owner and apply the "not arterial standard". The Board, on March 2, 1978, made an interpretation of the Zoning Code Text to the effect that if there was no access to the freeway by a service road then the "not an arterial setback" is appropriate. If there is access to a service road the arterial setback should apply which interpretation, in the opinion of Legal Counsel, would require a code amendment. It is therefore the opinion of Legal Counsel that the Board of Adjustment make known to the Planning Commission its findings with regard to this problem and its suggestions concerning the same and request TMAPC's consideration of the Zoning Code amendment in accordance with their interpretation.

Setbacks from Streets, Highways, Expressways, and Service Roads (continued)

Board Action:

On MOTION of JOLLY, the Board 3-0 (with Jolly, Purser and Smith voting "aye"; Lewis and Walden "absent") voted to accept the opinion provided by the City Attorney's Office, and further direct the Staff to advise the TMAPC of our interpretation; subject to review by the Board prior to submission of the communication to TMAPC.

Board Policies:

In an effort to shorten the Board meetings, Mr. Gardner suggested that consideration be given to 1) setting a cut-off date for the new applications; and 2) a change in the meeting schedule to every two weeks instead of the 1st and 3rd Thursday, which will increase the number of meetings by 2 to 4 per year; thereby better serving the general public.

Discussion followed with the Board agreeing that minor variances would not be included in the cut-off date.

The Chair asked Mr. Jones of the Staff to advise Mr. Walden and Mr. Lewis of the suggested changes so that a vote may be taken at the next Board meeting.

Election of Chairman:

Since Mr. Jolly has submitted his resignation and Mr. Lewis and Mr. Walden are not present, it was agreed to postpone election of a chairman to a later date.

There being no further business, the meeting adjourned at 5:35 p.m.

Date Approved

Aug 17, 1978

Kathryn J. Purser
Chairman