

BOARD OF ADJUSTMENT
MINUTES of Meeting No. 275
Thursday, December 21, 1978, 1:30 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Purser, Chairman Smith Wait	Jolly Lewis	Bagby Edwards Gardner Jones	Bates, Building Insp's. Office Jackere, Legal Dept.

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, on Tuesday, December 19, 1978, at 1:35 p.m., as well as in the Reception Area of the TMAPC Offices.

Chairman Purser called the meeting to order at 1:45 p.m. and declared a quorum present.

Minutes:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve the Minutes of November 16, 1978 (No. 273).

UNFINISHED BUSINESS:

10233

Action Requested:

Variance (Section 1320 (d) - Off-Street Parking - General Requirements - Under the Provisions of Section 1670 - Variances) of the parking requirements where the parking is not on the same property as the use in a CS District, located north and east of 31st Street and Memorial Drive.

Presentation:

The Staff advised that the applicant has requested a continuance to January 18, 1978 for Case No. 10233 in order to complete an agreement.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to continue Case No. 10233 to January 18, 1979, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

10257

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts-Section 1217 - Automotive and Allied Activities) for permission to have a "Reader Board" sign of 61 square feet; a "U-Haul" sign of 88 square feet; and a 5' roof canopy sign totaling 16 square feet. (The 88 square foot "U-Haul" sign is already in existence.) These signs are in a CS District located at 3303 South Yale Avenue.

Presentation:

David L. Soble, Attorney for U-Haul of Tulsa, reviewed the previous hearing of May 4, 1978, and advised that all six restrictions have been complied with. Regarding the canopy sign and reader board sign, Mr. Soble submitted photos (Exhibits "A-1 through A-6") to the Board, pointing out that other signs in the area are a great deal larger than his client's. The purpose of the canopy sign is for advertising accessory items such as exposure to the public that U-Haul is in the business of selling trailer hitches, boxes, ropes, tapes, etc. The external dimensions of the reader sign are 6' x 10'. It was noted that looking north from 36th Street, the applicant's sign is not visible due to trees. Mr. Soble feels the signs would enhance the physical appearance of the area, not blocking or obstructing traffic, increase awareness of the availability of goods and services, and increase the amount of sales and rentals.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities) for permission to have a "reader board" sign of 61 square feet; a "U-Haul" sign of 88 square feet; and a 5' roof canopy sign totaling 16 square feet. (The 88 square foot "U-Haul" sign is already in existence.), on the following described tract:

Lots 19 and 20, Block 3, Yorkshire Estates, Resub. of Lots 2-4, Block 3 and 4-13 inclusive, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

10258

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts-Under the Provisions of Section 1670) of the rear yard requirements from 30' to 13' in an RS-2 District located at 1728 East 60th Street.

Presentation:

Lee Anderson, representing the applicant, presented a plot plan (Exhibit "B-1") and advised that Mr. Bill Aarington is taking in his grandchildren and wishes to build on a 590 square foot addition to his home which is to include a bedroom, a half bath, a dressing area and a utility area. The design of the addition will complement the style of the existing structure, will add value to the property and compliment the neighborhood. The neighbor's view will not be cut off by the addition - there is a privacy fence at the present time. The bank has approved the loan application.

12.21.78:275(2)

10258 (continued)

Upon questioning by the Board, Ms. Anderson was asked to caution the applicant as to easements on the rear of the property prior to obtaining a building permit. It was pointed out that the variance is requested due to the shape of the lot, creating a hardship.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) per plot plan submitted, of the rear yard requirements from 30' to 13', on the following described tract:

Lot 9, Block 3, Southern Village Addition to the City of Tulsa, Ok.

10263

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) for permission to erect a plumbing shop in a CS District; and a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) for a variance of the setback requirements, in a CS District located at 1520 North Sheridan Road.

Presentation:

J. R. Stratton, the applicant, presented a Plat of Survey (Exhibit "C-1") and stated the purpose for the addition to the existing structure is for storage of tools and for parking the company trucks. He stated the addition will not be used for sales purposes. Vernon Hester, owner of the property, then addressed the Board stating the difference between the new plan and the last plan is that a variance is required on the west side only, which would be the rear office. Upon questioning from the Chair, Mr. Hester stated it is planned to attach the proposed structure to the existing building at a later date. However, it will look like one building with a 2' clearance between the structures; the same building materials will be used and the roof line will tie in.

Questioning from the Board continued with Mr. Stratton stating that 1,500 square feet is available at the front of the property facing Sheridan, which is ample parking for six places measuring 9' x 22' each. Mr. Hester added that Pine Place to the north can be used for public on-street parking. The Staff advised that the requirement of 8 or 9 parking spaces may have to be met. Mr. Hester repeated that his request is not for increased business space, but is for the use of parking his trucks and for storage purposes.

The Staff advised that another issue which has not been advertised is the sufficient off-street parking, recommending that if the Board is inclined to support the variance and the exception as far as the use is concerned, that the Building Inspector be satisfied before the issuance of the building permit that he physically can get the required number (8 or 9) parking spaces on the property without any reverse parking, etc. On the new Plat of Survey, Mr. Hester pointed out the areas on the property available for parking. The Chair clarified to the applicant that in order to obtain a

building permit he will be required to sketch (to scale) in the parking places. If that requirement cannot be met, then he will have to come back to the Board for a variance. The Staff pointed out and the Chair agreed that if this Board acts to approve this application that the actual approval of that much square footage, if that results in a hardship where the applicant cannot meet the off-street parking, then that action would not be a precedent to establish a hardship (this Board did not create the hardship),

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve the variance as requested, that to vary the setback line on the west to 4.6 feet and to vary the east setback to that distance shown on the plot plan, with the stipulation that the applicant show the Building Inspector that he can provide eight (8) parking spaces on the property itself excluding on-street parking, the requirements of the building permit and also that the building would be attached to the existing structure and that the building materials will be of the same type as exists now on the building that is in place. In the event that the applicant cannot show the Building Inspector that indeed he does have room for eight (8) spaces, that by virtue of taking the area for the building itself, that indeed he has created his own hardship and that he would not then be able to claim a hardship to be used for variance of off-street parking requirements, on the following described tract:

Lot 1, Block 2, Douglas Court Addition to the City of Tulsa, Ok.

NEW APPLICATIONS:

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts- Section 1215 - Other Trades and Services) to permit Use Unit 15, Other Trades and Services in a CS District located SE of 12th Street and Mingo Valley Expressway.

Presentation:

The applicant, J. W. Lewis with Lewis Properties, advised that the subject property lies on the south side of 12th Street and east of the Mingo Valley Expressway. This application is very similar to the application granted by the Board last month in that same area on the north side of 12th Street. The application is for approval of an office warehouse, possibly a mini-warehouse complex of 1,000-1,200-1,300 square feet base with 10-15-20% office usage; or it may be that the intended owner will just wish to build one single warehouse facility together with an office area.

Upon questioning from the Board, the applicant advised that a plot plan is not available. He then pointed out on the map the tract as having a 50 foot deeded land that runs from 12th Street South onto the property of 160' x approximately 320'.

Upon questioning from Bob Gardner and the Board, the applicant stated that to the north and west of the subject property there is a mobile

10264

home park, and to the south lies the Mingo Valley Apartments. Mr. Gardner advised the Board that it is felt that the applicant should be required to return to the Board with the Plot Plan prior to his issuance of building permits even though the applicant is not sure what is planned for the property and would like to arrange for financing.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to permit Use Unit 15, other trades and services, the site to be used for warehousing and offices as presented, with the stipulation that the applicant return to the Board with his final plans prior to the issuance of a building permit; on the following described tract:

The S/2, of the W/2 of Lot 6, and the east 50' of the N/2 of the W/2 of Lot 6, Mingo Valley Acreage Addition to the City of Tulsa, Oklahoma.

10265

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to use the property for Use Unit 15, other trades and services in a CS District located SW of 12th Street and 107th East Avenue.

Presentation:

The applicant, Bob Coley, advised that the subject property is immediately east of the Lewis property in Case #10264, and that he is also requesting approval for an office-warehouse type operation per plot plan (Exhibit "D-1") submitted. The applicant further stated the exterior of the proposed structure will be of the same metal construction as the two existing buildings, and the setbacks will be as required by the Code.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve an Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1215 - Other Trades and Services) to use the property for Use Unit 15, other trades and services, per plot plan submitted, on the following described tract:

The E/2 of Lot 6, Mingo Valley Acreage Addition to the City of Tulsa, Oklahoma.

Action Requested:

Variance (Section 420.2 - Accessory Uses in Residential Districts - Conditions - Under the Provisions of Section 1670) for permission to allow a detached accessory building (cabana and covered patio and swimming pool) in the front yard and/or side yard, in an RS-1 District located at 7627 South Oswego Place.

The Staff presented the Board with a plot plan (Exhibit "E-1").

Presentation:

Reg McClish, Attorney for the applicant, Allen David, submitted a Landscape Plan (Exhibit "E-2") and pointed out to the Board that the Building Permit Office had designated the proposed cabana as being on the front yard of the residence since it faced Oswego, when actually it is on the back yard. He stated that placement of the existing structure was due to the irregular shaped lot and for maximum utilization of the property. The residence is under construction at the present time and is not occupied. Upon questioning from the Chair, Mr. McClish stated that as shown in Exhibit "E-2" there will be a privacy fence constructed along with shrubbery, to screen Oswego from the cabana. Also, there will be landscaping with bushes and shrubbery to the already heavily treed lot. Upon further questioning from the Board, Mr. McClish stated the lot was initially a 2-1/2 acre tract and, like several of the lots in the area, had been split. Mr. McClish stated that he believes a house is under construction on the rear lot, and there are no other structures on the subject lot. To the question regarding the size of the existing structure, Mr. McClish stated the house contains about 4,000 sq. ft.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve a Variance (Section 420.2 - Accessory Uses in Residential Districts - Conditions - Under the Provisions of Section 1670 - Variances) for permission to allow a detached accessory building (cabana and covered patio and swimming pool) in the back yard and/or side yard, per plot plan submitted and per landscape plan submitted, on the following described tract:

Lot 1, Block 5, Timbercrest, an Addition in Tulsa County, Oklahoma, according to the recorded plat thereof.

Tract #1: Beginning at the SW corner of Lot 1; thence North $88^{\circ}-48'-37''$ East along the South boundary of said Lot 1, a distance of 290.32'; thence North $6^{\circ}-48'-56''$ East a distance of 102.83'; thence North $39^{\circ}-07'-44''$ West a distance of 80.82'; thence North $77^{\circ}-47'-19''$ West a distance of 70.44' to a point in the Northwesterly line of Lot 1, said line being the centerline of South Oswego Place; thence South $50^{\circ}-52'-16''$ West along the Northwesterly line of Lot 1, a distance of 174.98'; thence along a curve to the left with a central angle of $29^{\circ}-29'-56''$ and a radius of 125.00'; an arc distance of 64.36'; thence South $21^{\circ}-22'-20''$ West a distance of 25.65' to the point of beginning, containing 37,677.92 square feet, or 0.865 acres, more or less.

10267

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) for permission to locate a mobile home in an RS-3 District located at 1332 North Richmond Avenue.

Presentation:

William Duggan, the applicant, advised he has a 4-lot Tract and that the mobile home will be located behind his residence where he and his wife reside. The residence is located approximately 150' off Richmond with woods screening the side and back so that the house can barely be seen in the spring and summer months. The mobile home is an attractive 10' x 50' expando trailer with a 7' x 9' extension on the front. It is planned to eventually roof the extension for a protected patio effect. There are no interfering easements; the trailer will utilize the existing septic tank which is large enough to accommodate five people. Upon questioning from the Board, the applicant advised the mobile home will house only his mother-in-law who is on Social Security and Welfare. As a matter of information, Mr. Edwards of the Staff advised the Board that the property in question is shown to be in a potential floodplain. Mr. Duggan stated that a creek runs through his property, the west side of the property has been partially underwater, however, the subject property is on the high side of the bank and during the 8 years he has owned the property it has not flooded.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440 (6) - Mobile Homes) for permission to locate a mobile home in an RS-3 District, for a period of one year, removal bond required, subject to approval by the City Engineering Department as to drainage, on the following described tract:

The West 164.25' of the following:

Beginning at the NE corner of the SW/4, of the NW/4, of the NE/4 of Section 33, Township 20 North, Range 13 East, Tulsa County, Oklahoma; thence South 330' for the point of beginning; thence West 328.5'; thence South 75'; thence East 328.5'; thence North 75' to the point of beginning.

10268

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the front yard requirements from 30' to 25'; and a variance of the rear yard requirements from 25' to 5' in an RS-2 District, located south and east of 21st Street and Terwilliger Boulevard.

Presentation:

Richard Riddle, Attorney representing Mr. Freeman, the applicant, reviewed the denied application of October 1978, and stated that a re-evaluation of the proposed use of the subject property has been

12.21.78:275(7)

made in an attempt to compromise for acceptance by the Board and by the neighbors. Mr. Riddle submitted a survey (Exhibit "F-1") and stated the subject property is approximately 50' x 109'. In regard to the requested front yard requirements, he pointed out on the structure location survey for the area the location of the house to the north and the house to the south of the subject property. These structures are about 25' or 26' from the front lot line. The house immediately north does have a temporary carport structure which even encroaches on the 25' lot line area measuring 8' from the front of the lot.

Regarding the rear yard requirements, Mr. Riddle pointed out on the map that most of the houses in the area have detached garages including the house to the rear of the subject property, which are to the 5' easement line, adding that 30 out of 48 of the homes in a three-block area have detached garages. Mr. Riddle stated that the two requested variances would conform to the rest of the neighborhood which is quite old, noting that on the original plat there was a 5' rear easement building requirement and a 25' front yard requirement.

Upon questioning from the Chair, Mr. Riddle advised the English Tudor architecture would be carried out; the house would not be connected to the garage as by a solarium; a plot plan of the house is not available at this time; the structure basically will have to be about 400 square feet smaller in order to meet the proposed setbacks. Upon further questioning from the Board, it was understood that a plot plan furnished to the Board would be required prior to issuance of a building permit if the application were approved.

Protestant:

A letter of protest was submitted by G. A. Connor (Exhibit "F-2"). As spokesman for the protestants, G. A. Connor of 2129 South Terwilliger, stated that it is felt that in his case the structure on the subject property would devalue his property and obstruct his view; disagreed as to the frontage of his property being 25' - it is 28-1/2'; ownership has recently changed and Mr. Freeman no longer owns the subject property; for at least 50 years the lot in question has been the backyard to a house that fronts on St. Louis; objects to a large house being built on a small 50' wide lot, however, Mr. Connor stated there is no objection to a structure being built as long as the Codes are adhered to. Mr. Connor also stated that it is felt that the structure would be an infringement on the integrity of the street. In closing, Mr. Connor pointed out that the 15' off of Lot 3 (the subject property) onto his lot was done 25 years ago at the time his house was built and not since he has owned the property.

In the discussion that followed, the Chair pointed out that the reason the Board is given the authority to grant a variance or exception is for unusual circumstances, taking into consideration the character of the neighborhood, the surrounding houses, and setback hardship.

Margaret Akar, 2117 Terwilleger (Lot 2), stated there could be added parking problems in the spring due to the property being adjacent to Woodward Park. She has no objection to a structure on the property as long as it fits the lot.

Sally Clark, 2117 South Terwilleger, feels as does Ms. Akar, adding that it would also devalue her property; no objection to removing the temporary carport structure; and feels that large trees and bushes would have to be removed from the back yard, and that her property would suffer personal damage to shrubs, trees and bushes.

Upon questioning by the Chair regarding when Lot 3 was split from the back-yard lot of the house on St. Louis, Mr. Connor stated that to his knowledge that has not been split off. Mr. Gardner of the Staff, advised "that the Ordinance states if that garage is detached it can go within 3' of the rear property line and also if the proposed building is to be located within 200' of encroaching buildings on both sides (if that shows encroaching buildings, which I think it does), and there are no intervening buildings, the front yard or building setbacks shall be the average of the front yard or setback of the two nearest front corners of the encroaching buildings." The Chair then clarified that the same person owned both lots, as a lot of record; and Jackere, Legal Department, clarified there was not a lot-split done by TMAPC recently and there was no hearing previously. Mr. Gardner added that after discussion with the Building Inspector and the Legal Department, if the survey is correct the Building Inspector would issue the permit for the house without any action by the Board of Adjustment on the front setback and the rear setback.

Upon questioning from the Chair, Jackere, Legal Department, stated that "the evidence that has been presented by the survey would show perhaps that they have inappropriately filed this Case before the Board; if the Building Inspector is satisfied with that survey and would issue the building permit, then it is felt that they are improperly before this Board and a dismissal and possibly a refund might be in order." The Building Inspector then stated "they would need to submit their plan showing the encroaching buildings in order that they can use the encroaching method for figuring the setback, but the accessory building is by right if it sets further than 3' from the interior lot lines."

In further questioning from the Chair, Jackere, Legal Department stated that if the Board wants to keep control over the plot plan, the Board of Adjustment would need to take action on the application before then.

For the benefit of protestants, the Chair clarified that the Building Inspector's Office and the City Attorney's Office had informed the Board that it is not necessary that the applicant appear before the Board, that they may build without Board permission the detached garage within 3' of the back lot line and the house 25' from the front building line, and for the Board to take action rather than dismiss the case. If the case is dismissed by the Board then there is no control. If this Case is approved today the Board will be able to review the building plans and building materials before construction. Mr. Riddle agreed that the case should be acted on by the Board today.

10268 (continued)

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the front yard requirements from 30' to 25'; and a Variance of the rear yard requirements from 25' to 5' as presented this day, with stipulations that the applicant appear back before the Board with his building plans which will show the building elevation, the placement of the improvements on the property and the materials of which the structure is to be constructed, and also that the survey provided to the Board for the benefit of the Building Inspector be a certified survey, on the following described tract:

Lot 3, Block 2, less the East 15' thereof; Terwilleger Heights Addition to the City of Tulsa, Oklahoma.

Discussion continued with the Chair advising Mr. Riddle that per the Legal Department and the Open Meeting Law the Case (10268) must be placed on the Board's Agenda 24 hours in advance of the Board's review and approval.

The Board also advised Mr. Riddle that it should be understood that the subject structure is to be a traditional type house as presented and unless his client, Mr. Frampton, disagrees with that position, the Board sees no reason why the detailed plans to be submitted will not be approved. A public hearing or a refileing is not necessary to act on the detailed plans.

10274

Action Requested:

Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Section 1224 - Mining and Mineral Processing) for permission to allow sand extration and a ready-mix concrete plant in an AG District located south and east of 141st Street and 129th East Avenue.

Presentation:

Mr. Jones of the Staff requested that this Case be continued to January 4, 1979, in order to readvertise it.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to continue Case No. 10274 to January 4, 1979, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

10294

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) to permit building across a lot line in an RS-3 District located SE of 104th East Avenue and 50th Place.

10294 (continued)

Presentation:

Mr. Jones of the Staff advised the Board the variance is requested in order to build a house across a lot line, per plot plan (Exhibit "G-1") submitted. The property consists of two 25' lots in the Alsuma District and the required information is in the file.

Protests: None.

Board Action:

On MOTION of SMITH, the Board voted 3-0-0 (Purser, Smith, Wait "aye"; no "nays"; no "abstentions"; Jolly, Lewis "absent") to approve a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1630 - Minor Variances) to permit building across a lot line, per plot plan submitted on the following described tract:

Lots 5 and 6, Block 54, Alsuma Addition to the City of Tulsa, Tulsa County, Oklahoma.

10297

Action Requested:

Variance (Section 280 - Structure Setback From Abutting Streets - Under the Provisions of Section 1630 - Minor Variances) of the setback, to allow a pole sign to remain in a CH District located at 1408 South Harvard Avenue.

Presentation:

The Staff advised that Case No. 10297 has been withdrawn.

Protests: None.

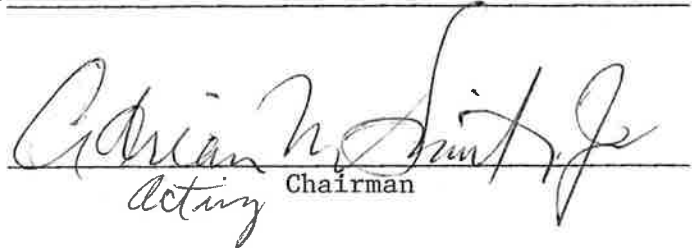
Board Action:

The Chair informed the Board that the applicant had chosen to withdraw the application, therefore, Case No. 10297 would not be heard.

Due to the loss of a quorum the meeting was adjourned at 2:45 p.m., with the Chair advising that the remaining cases on the Agenda will be heard in the same order as printed on the Agenda, on January 4, 1979.

Date Approved _____

2-1-79


Acting Chairman