

CITY BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 340  
Thursday, July 23, 1981, 1:30 p.m.  
Langenheim Auditorium, City Hall  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Lewis, Chairman Smith Victor Wait (out at 4:11 p.m.)	Purser	Gardner Hubbard Jones	Jackere, Legal Dept. Miller, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, on Wednesday, July 22, 1981, at 9:35 a.m., as well as in the Reception Area of the INCOG Offices.

After declaring a quorum present, Chairman Lewis called the meeting to order at 1:30 p.m.

MINUTES:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve the Minutes of June 11, 1981, (Meeting No. 337).

MINOR VARIANCES AND EXCEPTIONS:

11540

Action Requested:

Variance (Section 930 - Bulk and Area Requirements in Industrial Districts - Under the Provisions of Section 1630 - Minor Variances) request for a variance to approve 30' frontage on Garnett Road to permit a lot-split in an IL District. This property is located northwest of 61st Street and Garnett Road.

Presentation:

Mr. Jones advised the Board that, on July 15, 1981, the Tulsa Metropolitan Area Planning Commission approved a lot-split (L-15242) subject to the approval of this Board, and submitted a plot plan (Exhibit "A-1").

The applicant, John Sublett, was not present to address the Board.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by WAIT, the Board voted 3-0-1 (Lewis, Victor, Wait, "aye"; no "nays"; Smith "abstaining"; Purser "absent") to approve a Variance (Section 930 - Bulk and Area Requirements in Industrial Districts - Under the Provisions of Section 1630 - Minor Variances) to permit 30' frontage on Garnett Road per lot-split (L-15242) in an IL District, per plot plan, on the following described property:

Lot 1, Block 1, Garnett Place, an addition in City and County of Tulsa, Okla., according to the recorded plat thereof.

Action Requested:

Exception (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1630 - Minor Exceptions) request for an exception to permit an increase in the floor area ratio from 25% to 30 in an OL District. This property is located at 1717 East 15th Street.

Presentation:

W. Ralph Patterson, Attorney-at-Law, 711 Beacon Building, was present to address the Board and submitted a set of plans (Exhibit "B-1") consisting of a site plan, foundation plan, floor plan, north, south, east and west elevations, ceiling joist layout, typical exterior wall, typical interior wall, and section at reception. Mr. Patterson advised that the subject lot was vacant at this time, but had previously been occupied by a two-story residence. He explained that the lot measured 66.67' x 177.2'. Mr. Patterson stated that the property was jointly owned by himself, two of his law partners, and one other attorney and that they proposed to construct a new office building for their law firm on the property. He advised that part of the agreement set out that the office building was to be used solely by the law firm and no one other than those employed by the law firm.

Protestants: None.

Board Comments:

Mr. Lewis asked if there were other structures along 15th Street in the immediate vicinity which were in excess of the 25% floor area ratio.

Remarks:

Mr. Gardner advised that there were quite a number of very large structures along 15th Street--most of them being two-story structures--and that there had been other waivers of the 25% floor area ratio in the area.

Board Comments:

Mr. Smith asked if there would be any medical profession of any type occupying the building. Mr. Patterson replied that there would not be. Mr. Smith then asked if there were any anticipated parking problems. Mr. Patterson explained that nine spaces were required and that they had utilized the front of the property for a total of 16 parking spaces; therefore, no problems with parking were anticipated.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve an Exception (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1630 - Minor Exceptions) to permit an increase in the floor area ratio from 25% to 30% in an OL District, per plans submitted, on the following described property:

Lot 10, Block 3, a subdivision of Part of Block 5, in Terrace Drive Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

UNFINISHED BUSINESS:

11497

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.2 - Special Exception Uses in Residential Districts, Requirements - Under the Provisions of Section 1680) request for an exception to permit the operation of a truck repair business in an RS-2 District; and, a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Section 1217 - Automotive and Allied Activities - Under the Provisions of Section 1670) request for a use variance to permit the operation of a truck repair business in an RS-2 District. This property is located at 419 South 129th East Avenue.

Presentation:

Mr. Jones advised the Board that Robert Butler, legal counsel for the applicant, Arnold Webster, had telephoned him prior to the meeting to request a continuance to August 6, 1981, as he was in Houston, Texas, and would be unable to attend the meeting.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to continue Case Number 11497 to August 6, 1981.

11528

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) request for a variance of the front setback requirements from the centerline of West 48th Place from 55' to 30' & 3" in an RS-3 District to permit a carport. This property is located at 2120 West 48th Place.

Presentation:

Mr. Jones advised the Board that this application had been continued from the July 9 meeting in order to allow for the presence of additional Board members and in order to allow time for Board members to view the property and surrounding area.

C. D. McClintock, 2120 West 48th Place, advised that he was the owner of the subject property and submitted a list containing thirteen signatures of persons stating that they had no objections to the proposal (Exhibit "C-1"). Mr. McClintock further advised that, in the same block, there were two additional carports which extend out as far as the subject carport--the subject carport having been built approximately three months ago.

Protestants: None.

11528 (continued)

Board Comments:

Mr. Lewis asked Mr. McClintock what materials the carport was constructed of. Mr. McClintock advised that the materials consisted of wood and shingles, as were used in the original construction of the residence.

Board Action:

On MOTION of VICTOR and SECOND by WAIT, the Board voted 3-1-0 (Lewis, Victor, Wait, "aye"; Smith "nay"; no "abstentions"; Purser "absent") to approve a Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the front setback requirements from the centerline of West 48th Place from 55' to 30' & 3" in an RS-3 District to permit a carport, on the following described property:

Lot 33, Block 10, Hill Haven Addition to the City of Tulsa, Okla.

11537

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1213 - Convenience Goods and Services - Under the Provisions of Section 1680) request for an exception to permit a convenience store in an IL District. This property is located at 765 North Mingo Road.

Presentation:

Mr. Jones advised the Board that this application has been continued from July 9 meeting because the applicant had not been present to address the Board.

Roy Johnsen, 324 Main Mall, was present to address the Board and submitted a plot plan (Exhibit "D-1"). Mr. Johnsen advised that Quik Trip owned the property to the north of the subject property and that there was an additional Quik Trip Store and Division Offices in that area. The property across the street on Mingo is classified retail and other retail uses in the area, thus being compatible with those uses in the area. Mr. Johnsen noted that the property was located in a floodplain, but that proper procedures would be complied with as set out by the City Hydrologist.

Protestants: None.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 3-0-0 (Lewis, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve an Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1213 - Convenience Goods and Services - Under the Provisions of Section 1680) to permit a convenience store in an IL District, per plot plan, on the following described property:

Lot 1, Block 2, Expressway Village Center Addition to the City of Tulsa, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Commercial Districts - Section 1217 - Automotive and Allied Activities - Under the Provisions of Section 1680) request for an exception to permit automotive repair and allied activities in a CS District. This property is located at 2223 East 3rd Street.

Presentation:

Mr. Jones advised the Board that this application had been continued from the July 9 meeting because the applicant had not been present to address the Board.

Ernie Hartman, Tulsa Metro Builders, 3228 South 88th East Avenue, was present to address the Board and submitted a sketch plan (Exhibit "E-1"). Mr. Hartman explained that his Company proposed to locate a metal building on the subject property for an automotive service and repair business. Mr. Hartman stated that he had originally requested a variance of the setback from the centerline of 3rd Street from 100' to 70' and the request has since been changed to 65' to 46'. He stated that, across the street to the west was located Tulsa Christian Academy, next to that was a residence, a used car lot was to the west, there was the Palace Office Supply to the southeast, RM-2 zoning was located to the north, and to the east was a residence and CS zoning.

Protestants: None.

Board Comments:

Mr. Lewis asked Mr. Hartman to briefly explain the type of operation. Mr. Hartman explained that there would be tune-ups, carburetor repair, transmission repairs, and general overhauls.

Mr. Smith asked him if there was any outside storage planned. Mr. Hartman advised that there would be none. Mr. Smith then asked if he would be accepting wrecked vehicles and Mr. Hartman replied that there would be no work of that nature. Mr. Smith asked if there would be any body work, painting, sandblasting, or any of that type of work performed in the building. Mr. Hartman replied that there would be none and that this was not a chain-type business--rather it was to be owned by an individual, Harley Martin. Mr. Smith asked if the building would be decorative or if it would be a metal building, whereupon Mr. Hartman replied that it would be a metal building and that he would be more than willing to comply with any landscaping stipulations required by the Board.

Mr. Lewis asked if there were any plans of the building and layout yet. Mr. Hartman advised that he was not at that stage yet. Mr. Hartman explained that parking would be on the west and that a screening fence would be erected on the east.

Brief discussion ensued as to the parking and utilizing City right-of-way for that parking.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to continue Case Number 11538 to August 6, 1981, at which time the

11538 (continued)

applicant will return to the Board with definite plans and photographs of the surrounding area.

NEW APPLICATIONS:

11543

Action Requested:

Section 1650 - Appeals From the Building Inspector; and, Section 250 - Modification of the Screening Wall or Fence Requirements; and, Section 1680 - Special Exceptions.

Presentation:

Mr. Jones submitted to the Board a petition of protest (Exhibit "F-1") containing 44 signatures of area residents.

David Bagley, Fourth National Bank Building, was present to address the Board in the capacity of legal counsel for Castlewood Associates, Ltd., the owner of the property. Mr. Bagley submitted to the Board a copy of the Minutes of August 16, 1978, of the Tulsa Metropolitan Area Planning Commission on Application No. Z-5158 and PUD #212 (Exhibit "F-2"), as well as a Plat of Survey of the property (Exhibit "F-3").

Mr. Bagley advised the Board that PUD #212 was approved, deleting the apartment complex from the controls of the PUD, and therefore, no fencing requirement now exists. He advised that the street separates the apartment parking lot from the residential district by 50 feet or more, and therefore no screening requirements apply under today's Zoning Code.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to interpret that Section 1340 (e) of the Zoning Code does not apply to this particular case, and that the Building Inspector's decision be reversed; therefore, no screening fence is required by the Ordinance on the following described property.

For the Record:

Without objection, the Chair advised that, based on the advice of legal counsel, the previous controls of the CDP and PUD are no longer applicable.

All of Block 4, Memorial Manor, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

11544

Action Requested:

Appeal From a Decision of the Building Inspector - Under the Provisions of Section 1650 - Appeal from refusing to permit a dump truck to be parking on the premises; and, a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670) request for a variance to permit a dump truck to be parked on the premises. This property is located at 407 South New Haven Ave.

11544 (continued)

Presentation:

Lawrence Rinier, 407 South New Haven Avenue, was present to address the Board and requested a continuance to August 6, 1981, in order to obtain legal counsel.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to continue Case Number 11544 to August 6, 1981.

11546

Action Requested:

Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670 - Variances) request for a variance to permit the parking of public school buses, fueling of buses, and a wrecker on the property; and, a Variance (Section 1330 (b) - Setbacks - Under the Provisions of Section 1670 - Variances) request for a variance to permit parking of automobiles and buses on the property lines; and, a Variance (Section 1340 (d) - Design Standards for Off-Street Parking Areas - Under the Provisions of Section 1670 - Variances) request for a variance to permit a crushed rock base for the surface of the parking lot; and, an Exception (Section 250.3 (b) - Modification of the Screening Wall or Fence Requirements) request for an exception to modify the screening requirement where an alternative screening will provide visual separation of uses. This property is located at 1012 West 36th Place.

Presentation:

John Moyer, Attorney-at-Law, 525 South Main Street, was present to address the Board on the behalf of Independent School District No. 1 of Tulsa County, Oklahoma, and submitted a plot plan (Exhibit "G-1"), as well as twelve 8" x 10" black and white photographs of the subject and surrounding property. Mr. Moyer advised that the subject property contained approximately 2.06 acres. He stated that since about 1920, the property has been dedicated to the use of public schools. The McBirney Elementary School was erected on the site and utilized until 1965, at which time it was vacated and, shortly thereafter, burned down. The site was leveled and the debris was removed and the lot has remained vacant since that time. Mr. Moyer explained that the District 9 Planning Team for the Tulsa Public Schools recommended that, in order to provide better school bus service to the community and in order to save funds, that a satellite bus station be constructed at the McBirney site. Mr. Moyer advised that the rationale behind the recommendation was that the parking and fueling of the buses at this location, which would be nearer to the areas served by these particular buses and nearer to the point where the routes begin, would not only save time, but would save fuel, reduce maintenance by reducing the mileage the buses would have to travel each day, and it would make it easier to obtain and retain drivers. Mr. Moyer noted that the property was vacated in an RS-3 District and pointed out in the exhibited photographs that the area was not a typical RS-3 District. He explained that the School District intended to construct a 24' x 28' frame building for which to provide security, which would be parked on the lot and to provide a dispatcher a location to perform his duties. North of the

proposed building would be a 24' x 60' slab of concrete, the purpose being primarily for the changing of tires on the buses. All maintenance to be performed on these buses would not be performed on the subject property--rather maintenance would be performed at the central garage of the School District. In addition, Mr. Moyer explained that eight (8) light poles, 30' in height with sodium lights on top, would be erected. The lights would be provided with shades that would allow for reflection onto the parking area. He stated that a cyclone fence around the site had been there for many years and that it would be maintained and that two additional gates would be added on the southwest and southeast corners. This would allow for access to the buses. Proposed parking would be provided for 32 buses and 37 cars--anticipating the amount of parking necessary in order to properly utilize this piece of property. Mr. Moyer advised that the surface of the lot would be of 6" deep crushed rock of varying sizes in hopes of eliminating drainage problems onto other property. Mr. Moyer explained that the fueling process at the site would be carried out by a 2,500 gallon bob-tail tank truck being purchased by the School District for the sole purpose of fueling the buses on this site in order to avoid the expenditure of having to drive the buses to the central location, fuel it, then drive it back to the original site. Mr. Moyer also explained that there would be a wrecker on the site in order to return buses which break down on a route to the location or to the central maintenance facility. Mr. Moyer emphasized that none of the activities would be ongoing during evening or night hours.

Protestants:

Karen Piraro, 1023 West 36th Place, stated that she lived directly across the street from the subject property and that there was a water runoff problem in the area; therefore, if pavement was used on the lot it would create more of a problem. She stated that if pavement was not used, the dirt would be stirred up and create unnecessary dust. Ms. Piraro advised that there were residences on all four sides of the property--all of which faced the property. She stated that she would not feel comfortable with a fuel tank truck parked across from her home and, further, felt there would be a noise problem.

Board Comments:

Mr. Smith asked if conversations had been conducted with the local fire department. Mr. Moyer indicated that the officials had been contacted and further, that the fueling procedures had been reviewed with the State Fire Marshal's Office, believing that the necessary requirements imposed by that Office had been met. He stated that Deputy Fire Marshal W. A. McKim of the Tulsa Fire Department had advised that there would be no problem in fueling the buses directly from the fuel truck as long as it is done on the site and not on the street. He further indicated that Chief McKim had visited the site and has no difficulty in what is being proposed. Mr. Smith voiced a concern over a gravel lot rather than pavement, since the Zoning Code provides that parking areas be paved with a hard, all-weather material.

Considerable discussion ensued and Board members voiced concerns over the use of the property, the fuel tank truck being located on the property, the crushed rock base for the surface of the parking lot, and the modification of the screening requirements.



Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-1-0 (Smith, Victor, Wait, "aye"; Lewis "nay"; no "abstentions"; Purser "absent") to approve a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670 - Variances) to permit the parking of public school buses and a wrecker on the property, as described in the drawings submitted.

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-0-1 (Smith, Victor, Wait, "aye"; no "nays"; Lewis "abstaining"; Purser "absent") to approve a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1670 - Variances) to permit the fueling of buses on the condition that fueling is done from a buried fuel tank system.

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-0-1 (Smith, Victor, Wait, "aye"; no "nays"; Lewis "abstaining"; Purser "absent") to deny the Variance (Section 1340 (d) - Design Standards for Off-Street Parking Areas - Under the Provisions of Section 1670 - Variances) to permit a crushed rock base for the surface of the parking lot; and, to deny the Exception (Section 250.3 (b) - Modification of the Screening Wall or Fence Requirements) to modify the screening requirements.

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-0-1 (Smith, Victor, Wait, "aye"; no "nays"; Lewis "abstaining"; Purser "absent") to approve a Variance (Section 1330 (b) - Setbacks - Under the Provisions of Section 1670 - Variances) to permit parking of automobiles and buses on the property lines, on the condition that the parking area is screened and that lighting be directed into the interior of the parking area on the property, be situated on 30' poles, and be shaded as described by the applicant.

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-0-1 (Smith, Victor, Wait, "aye"; no "nays"; Lewis "abstaining"; Purser "absent") to require the applicant to secure permission from the City Hydrologist and submit the site plan and grading plan for approval in order to eliminate drainage problems as a contingency of approval of the use.

On MOTION of SMITH and SECOND by VICTOR, the Board voted 3-0-1 (Smith, Victor, Wait, "aye"; no "nays"; Lewis "abstaining"; Purser "absent") to limit the use of the property for the duration of the school year only; all on the following described property:

Public School Site, First McBirney Subdivision in the NE/4 of the SW/4 of Section 23, Township 19 North, Range 12 East, City of Tulsa, Tulsa County, Oklahoma.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Under the Provisions of Section 1680) request for an exception to permit off-street parking in an RS-3 District that abuts an OL District that will be used in conjunction with the OL District. This property is located at 3902 East 51st Street.

11547 (continued)

Presentation:

Larry Crawford, Assistant Building Manager for Casablanca Office Building, 3902 East 51st Street, was present to address the Board and requested a continuance to August 20, 1981, due to the fact that legal counsel was in court and would be on personal business on the following meeting date.

Protestants:

A spokesman for a group of protestants advised the Board that August 20, would not be a convenient date for him due to the fact that he would be out of town, but indicated that the September 3rd meeting would be convenient. A petition of protest was submitted to the Board and will be retained in the file to be exhibited at the September 3rd meeting.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to continue Case Number 11547 to September 3rd, 1981, as requested by the applicant and protestants.

11548

Action Requested:

Exception (Section 250.3 (a) - Modification of the Screening Wall or Fence Requirements - Under the Provisions of Section 1680) request for an exception to modify or remove the screening requirement where existing physical features provide visual separation of uses. This property is located at 5801 East 41st Street.

Presentation:

Michael Mowery, 5801 East 41st Street, Suite 802, was present to address the Board and advised that he was an architect representing the owners of the property, Service Corporation of Tulsa, and submitted a plot plan (Exhibit "H-1"), a layout of four color photographs (Exhibit "H-2"), and a letter (Exhibit "H-3") to Ron Milam, President of Service Corporation of Tulsa, Inc., dated July 9, 1981, from Eusebius J. Beltran, Bishop of the Diocese of Tulsa, stating in part "...Inasmuch as Bishop Kelley High School is operated by Diocese of Tulsa, please be advised that it is our wish that such a fence not be erected. We do not think it would be beneficial to the operation and use of the school property. We trust that you may share in this opinion." Mr. Mowery directed the attention of the Board members to the photograph layout pointing out the property line of Service Corporation of Tulsa and the parking lots of Bishop Kelley High School and Service Corporation of Tulsa.

Protestants: None.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve an Exception (Section 250.3 (a) - Modification of the Screening Wall or Fence Requirements - Under the Provisions of Section 1680) to modify or remove the screening requirement where existing physical

11548 (continued)

features provide visual separation of uses, per plot plan, on the following described property:

Lot 3, Block 1, Mid-America Office Park Addition to the City of Tulsa, Tulsa County, Oklahoma.

11549

Action Requested:

Variance (Section 240.2 - Permitted Yard Obstructions - Under the Provisions of Section 1670) request for a variance to permit an accessory building of 876 square feet, exceeding the 750 square feet required. This property is located at 10317 South Sandusky.

Presentation:

Rod Sands, 10317 South Sandusky Avenue, was present to address the Board and submitted a set of plans (Exhibit "I-1") and advised that he proposed to construct a garage with a covered walkway from the existing residence to the garage. The garage, he explained, would be constructed of wood shingle with a rock front and sides. He stated that there would be a double-wide garage door, a walk-in door, and a single-wide garage door with plans to house two automobiles in the double-wide portion of the structure and to store one antique automobile in the single-wide portion. In addition, the garage would allow extra room for a hobby area. Mr. Sands advised that he had discussed the proposed construction with the neighbors on all sides and had received no objections--only comments that it would be an asset to the neighborhood. Mr. Sands further advised that the lot(s) to the east remained undeveloped.

Protestants: None.

Board Comments:

Mr. Lewis asked Mr. Sands what type of work he would be performing in the garage. Mr. Sands replied that he would be tinkering with the antique automobile only and that there would be no business conducted out of the structure.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve a Variance (Section 240.2 - Permitted Yard Obstructions - Under the Provisions of Section 1670) to permit an accessory building of 876 square feet, exceeding the 750 square feet required, per plans submitted, on the following described property:

Lot 2, Block 6, Forest Oaks Addition to the City of Tulsa, Tulsa County, Oklahoma.

11550

Action Requested:

Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1214 - Shopping Goods and Services) request for an exception to permit an automotive parts store in an IL District. This property is located at 5151 East Pine Street.

11550 (continued)

Presentation:

Michael Masterson, legal counsel for the applicant, Paul Marshall, 2727 East Pine Street, was present to address the Board and submitted a plot plan (Exhibit "J-1"). Mr. Masterson advised that his client wished to develop the 55-acre tract of land into an automotive parts store. He briefly summarized the history of the tract of land stating that, prior to the purchase by his client, the property was a coal mining strip pit, later was a dump, and more recently has been filled in. Mr. Masterson stated that to the north, east and west were IL Districts and to the south was a Commercial District with some residences owned by corporations. He also stated that there was an automobile salvage next to the proposed business on the subject property and that as soon as that lease was up, they would be asked to vacate. Mr. Masterson explained that the parts sold would be retail.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve an Exception (Section 910 - Principal Uses Permitted in Industrial Districts - Section 1214 - Shopping Goods and Services) to permit an automotive parts store in an IL District, per plot plan, on the following described property:

Part and parcel of a tract of land located in the SW/4 of Section 27, Township 20 North, Range 13 East, City of Tulsa, Tulsa County, Oklahoma, described as follows, to wit: Beginning at a point 800 feet East and 60 feet North of the SW corner of the said SW/4; thence East and parallel to the south line of the said SW/4; a distance of 150 feet to the proposed Canton Street; thence North 10 feet and parallel to the proposed Canton Street; thence West 150 feet to a point; thence due South 110 feet to the place of beginning; also known as 5151 East Pine Street, Tulsa, Oklahoma.

11552

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Under the Provisions of Section 1670) request for a variance of the setback requirements from the centerline of Harvard Avenue from 100' to 56' to permit an automatic teller. This property is located at the SE corner of 51st Street and Harvard Avenue.

Presentation:

Pat Malloy, Attorney-at-Law, Utica National Bank Building, was present to address the Board and submitted thirteen color photographs of the subject and surrounding property (Exhibit "K-1"). Mr. Malloy advised that he was representing Frontier Federal Savings and Loan, which planned to take a lease on an automatic depository. He advised that the small building would be located in the shopping center located on the SE corner of 51st Street and Harvard Avenue and would be very compatible with the type of operations and businesses in the center.

11552 (continued)

Protestants: None.

Board Comments:

Mr. Lewis asked Mr. Malloy if the building would be any closer to the street than any of the other structures, and Mr. Malloy replied that it would be located back further.

Remarks:

Mr. Gardner suggested that the Board pay special attention to the possibility of setting a precedent of approving the location of small automatic teller buildings closer to the centerline than required, pointing out that the small buildings were considerably different from location and advertising signs of businesses and restaurants in that particular area. Mr. Gardner made note of the fact that several requests of this type had been reviewed by the Board and routinely were not approved, and that Mr. Malloy had been referring to the setback location of signs in comparison to the setback requested for the proposed automatic depository building in his presentation--not other structures. Discussion ensued.

Board Action:

On MOTION of SMITH and SECOND by WAIT, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to continue Case Number 11552 to August 6th in order for the applicant to submit an updated site plan of the property and building locations in the Center.

11553

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural, and Recreational Facilities - Under the Provisions of Section 1680) request for an exception to permit a day care center as an operation of a church in an RS-3 District. This property is located at 18210 East Admiral Place.

Presentation:

Reverend Bill Wheeler, 256 South 183rd East Avenue, was present to address the Board and advised that he was the Pastor of the Evangel Assembly of God Church. Reverend Wheeler explained that, on August 4, 1970, (BOA Case #6720) the Board of Adjustment granted the Church an exception to permit the operation of a church and a day care center on the subject property and that the day care center was not implemented within the three-year time period as required by the Zoning Code Ordinance; therefore, the approval for the day care center expired at the end of that three-year period. Reverend Wheeler advised that the hours of operation would be from 6:30 a.m. until 6:00 p.m. and would be a non-profit nursery. He stated that the Church was licensed by the State to care for 56 children ranging in age from 10 months to 12 years of age. He explained that the building sets at the north end of the property and that the play area would be at the south end of the property all the way to the south property line. Reverend Wheeler advised that the property had been properly fenced, that the inspectors had been out, and all fire codes, etc., has been passed.

11553 (continued)

Protestants: None.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to approve an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1205 - Community Services, Cultural, and Recreational Facilities - Under the Provisions of Section 1680) to permit a day care center as an operation of a church in an RS-3 District, the hours of operation to be from 6:30 a.m. to 6:00 p.m., and subject to the care of only 56 children, on the following described property:

The West 190' of the East 929.6' of Lot 6, Section 1, Township 19 North, Range 14 East, City of Tulsa, Tulsa County, Oklahoma.

11554

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes - Under the Provisions of Section 1680) request for an exception to permit a mobile home in an RS-3 District. This property is located at 6752 South Elwood Avenue.

Presentation:

Steve Fisher, 6752 South Elwood Avenue, was present to address the Board and advised that his father is terminally ill, requiring constant care. Mr. Fisher further advised that there were no other mobile homes in the area, but that he had spoken with his neighbors--none of whom had any objections. He stated that a perc trst had been performed by the City-County Health Department and that it had passed and been approved for the lot.

Protestants: None.

Board Comments:

Mr. Lewis asked Mr. Fisher how large the subject lot was. Mr. Fisher replied that the lot was  $1\frac{1}{2}$  acres--approximately 155' x 310'. Mr. Lewis then asked where the mobile home would be situated on the property. Mr. Fisher advised that his residence was on the south side of the lot and that the mobile home would be placed on the north side of the lot approximately 60' from the residence.

Mr. Smith asked Mr. Fisher if the only occupant of the mobile home would be his father and Mr. Fisher indicated that his father's wife would also be residing in the mobile home, but that since she was employed and someone needed to be with his father at all times, he (Mr. Fisher) and his wife would be looking after him.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; "nays"; no "abstentions"; Purser "absent") to approve an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes - Under the Provisions of Section 1680) to permit a mobile home in an RS-3 District, for a period of one year, removal bond required, on the following described property:

11554 (continued)

The North 150' of the NE/4 of the SE/4 of the NE/4 of the SE/4, LESS the North 50' of Section 2, Township 18 North, Range 12 East, Tulsa City, Tulsa County, Oklahoma.

11555

Action Requested:

Exception (Section 310 - Principal Uses Permitted in Agriculture Districts - Section 1205 - Community Services, Cultural and Recreational Facilities - Under the Provisions of Section 1680) request for an exception to permit a rehabilitation facility for the illness of alcoholism. This property is located at 10400 South Kingston Avenue.

Presentation:

Gary Wood, 3448 South 133rd East Avenue, was present to address the Board and advised that he represented a group of individuals wishing to form a non-profit corporation to purchase the subject property. Mr. Wood submitted to the Board a plot plan (Exhibit "L-1") and explained that the group wished to construct an alcohol treatment center on the property. He stated that the tract of land was approximately 5½ acres and is zoned AG. Mr. Wood advised that the persons to be treated would not be violent and would not be people being convicted of crimes, but would be people seeking voluntary admission for the treatment of their illness of alcoholism as if they were entering a hospital or some other type of facility. He stated that the environment would be chemical free and that the use of drugs would not be a part of the program. The program would be a structured program which would last all day, free time included, with recreational facilities available in the form of a jogging course and tennis courts. The program would be professionally maintained and operated by the facility with 24-hour staffing consisting of RNs or LPNs. Construction, Mr. Wood explained, would not occur fronting any streets and that the closest residence would be approximately 500' from the actual site of the building, with any other residences approximately ¼ mile away. The facility itself would be approximately 2,000 square feet in terms of livability space, 12 bedrooms, and that there were no plans for expansion. Mr. Wood advised that other entities which would overwatch such facilities of this type (i.e., the State Department of Health, Department of Mental Health, Tulsa City-County Health Department) have certain standards of operation and criteria to be met and, after six months of operation, a joint commission of hospital accreditation would be requested for this facility, not as a hospital, but as an alcoholic rehabilitation facility. He explained that the request could not be solicited until after six months of operation. Mr. Wood advised that criteria for admission of patients would include a medical diagnosis of alcoholism by a registered physician, a licensed psychiatrist, or a board certified clinical psychologist, and that the patient would have to have the ability to make payment due to the fact that the facility will be self-sustaining. Since registered physicians would not be staffed at the location, medication would be obtained for a patient from an outside source (i.e., his own personal physician). Mr. Wood stated that the facility would not qualify for government funds of any type in regard to payment of a patient's treatment except, possibly, in the form of Medicare or CHAMPUS funds. He advised that patients would be required to remain at the facility for treatment for a 28-day period and, if a patient leaves the premises during that

period of treatment, he will not be allowed to return to the facility. Mr. Wood explained that exceptions to that rule would be made in the event of a family emergency or some other similar situation.

Protestants:

Paul Clark, 5021 East 98th Street, advised that residents of his neighborhood had not been notified due to the fact that they were not property owners adjoining the subject property, but that he did have some concerns--specifically, that the homeowners of Sun Meadows would prefer that this type of facility not be located there. Mr. Clark indicated that many of the families residing in the Sun Meadows Addition had small children which were not of school age; therefore, some of the parents were concerned about the safety of their children, as well as themselves.

Herb Zaborsky, 9910 South Allegheny Avenue, advised that he was the District Chairman on the Greater Tulsa Council for District 26 and that he was concerned with the proposal, since he considered it to be a commercial facility and, inasmuch, should not be allowed in the center portion between two nodes of development. He felt that, eventually, the facility could be detrimental to the area.

Steve Schuller, representing Elmer Anderson in the capacity of legal counsel, advised that Mr. Anderson owned 70 acres immediately to the west and south of the subject property. Mr. Schuller pointed out that the property to the east was zoned RS-3 and the property to the north across 101st Street was zoned RS-1; consequently, there is extensive residential development all around that area. He advised that Mr. Anderson lives on his property adjacent to the subject property and that Mr. Anderson intends to develop it for residential use with large lots and expensive homes. Mr. Schuller noted that the exception being requested by the applicant is not in harmony with the spirit and intent of the Zoning Code. He also stated that he felt the approval of the facility would offer some threat to the safety, peace, order, and general welfare of the neighborhood, but more directly, it would have an adverse effect on the value of his client's property, as well as the surrounding various residential properties.

Applicant's Comments:

Mr. Wood addressed the remark made by Mr. Zaborsky regarding the facility being a commercial type of facility and explained that it would be a non-profit group purchasing the property and would be provided for as with all other organizations of that type (i.e., hospital, school, or church) and under the same incorporation standards.

Board Comments:

Mr. Smith commented that he felt it to be a very worthwhile endeavor; however, he further felt that the interior location was wrong.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 4-0-0 (Lewis, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser "absent") to deny the Exception (Section 310 - Principal Uses Permitted in Agriculture Districts - Section 1205 - Community Services, Cultural and Recreational Facilities - Under the Provisions of Section 1680) to permit a rehabilitation facility for the illness of alcoholism on the following described property:



111555 (continued)

All that part of the E/2 of the E/2 of the NW/4 of the NE/4 of Section 27, Township 18 North, Range 13 East, Tulsa County, State of Oklahoma, described as follows: Beginning at the SE corner of said E/2, E/2, NW/4, NE/4; thence North 0°-01'-58" West along the East boundary of said E/2, E/2, NW/4, NE/4 a distance of 698.42'; thence South 89°-51'-19" West a distance of 331.39'; thence South 0°-01'-47" East a distance of 698.42'; thence North 89°-51'-00" East along the South boundary of said E/2, E/2, NW/4, NE/4 a distance of 331.39' to the point of beginning, containing 5.25 acres, more or less.

11556

Action Requested:

Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Section 1213 - Convenience Goods and Services - Under the Provisions of Section 1670) request for a variance of the setback requirements from the centerline of the abutting street from 100' to 85' in a CS District. This property is located on the northwest corner of 51st Street and Lewis Avenue.

Presentation:

Roy Johnsen, 324 Main Mall, was present to address the Board and submitted an aerial photo of the subject property and surrounding area (Exhibit "M-1"). Mr. Johnsen advised that the proposed development would not occur in any future right-of-ways. He further advised that the existing service station would be removed and a Quik Trip convenience store would be erected. Mr. Johnsen stated that the majority of the structures along the area on 51st Street to the west of the subject property did not meet the required setback primarily because the lots are somewhat narrow and irregular in shape between an arterial street and the expressway. He further noted that, in previous action, the Board of Adjustment had approved a variance of the setback for the Wendy's Hamburgers structure to 70' from the centerline of Lewis Avenue. He also pointed out that, along 51st Street, was a considerable amount of RM-1 and RM-2 zoning which have an 85' setback requirement.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 3-0-0 (Lewis, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - Section 1213 - Convenience Goods and Services - Under the Provisions of Section 1670) of the setback requirements from the centerline of the abutting street from 100' to 85' in a CS District, as presented, on the following described property:

The South 240' of the East 220' of the SE/4 of Section 30, Township 19 North, Range 13 East, City of Tulsa, Tulsa County, Oklahoma.

Action Requested:

Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) request for a variance of the setback requirements from 3' to 1' to permit an accessory building in an RS-2 District. This property is located at 2830 South Florence Place.

Presentation:

Gus Boss, 2830 South Florence Avenue, was present to address the Board and submitted a plot plan (Exhibit "N-1"), a plat of survey to which was attached a notification from White Surveying Company dated July 23, 1981, advising that, "The overhang on the south side of the pool house located on Lot 6, Block 2, Amended Lakewood Addition, is .9 feet wide and does not encroach over the south property line." (Exhibit "N-2"), a petition containing 11 signatures of property-owners within a 300' radius stating that they had no objection (Exhibit "N-3"), and four color photographs of the subject property and pool house (Exhibit "N-4"). Mr. Boss advised the Board that the pool house had already been constructed. Mr. Boss further advised that he had the pool house built, that he, himself, was a builder, but that he was unaware of the requirements of the Zoning Code as, apparently, was the contractor that built the accessory building.

Protestants:

Kathy Borchardt, representing the Smoot Family, the owners of the property immediately to the south, 2838 South Florence Place, addressed the Board noting that she had spoken with Sandra Downie, the property-owner directly across the street, and that she, too, wished to be recognized as a protestant of record. Ms. Borchardt advised that she felt the applicant had not addressed a hardship as required by the Zoning Code for approval of a variance by the Board. She also stated that, with the accessory building that close to a fence on the property line, trimming overgrowth and grass was next to impossible and, with a small lake in the area, there was a problem with rats.

Applicant's Comments:

Mr. Boss advised that he had not erected the fence which was referred to by Ms. Borchardt--that his neighbor had when he built his own pool. He further stated that when the surveyor's surveyed his property the day before, rats had run out from under lumber piles on his neighbor's property.

Board Action:

On MOTION of VICTOR and SECOND by SMITH, the Board voted 2-1-0 (Smith, Victor, "aye"; Lewis "nay"; no "abstentions"; Purser, Wait, "absent") to deny the Variance (Section 430 - Bulk and Area Requirements in Residential Districts - Under the Provisions of Section 1670) of the setback requirements from 3' to 1' to permit an accessory building in an RS-2 District, on the following described property:

Lot 6, Block 2, Lakewood Addition to the City and County of Tulsa, Oklahoma.

For the Record:

Mr. Jackere noted that the motion failed because three affirmative votes were not cast; therefore, since no motion carried, the application was technically denied.

Action Requested:

Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes - Under the Provisions of Section 1680) request for an exception to permit a mobile home in an RD District. This property is located at 16502 East 15th Street.

Presentation:

James Flournoy, 2028 East 14th Place, was present to address the Board and advised that he wished to locate a mobile home temporarily on the subject property while a residence was being constructed for security and convenience purposes. He advised that there were no other mobile homes in the area and, further, that the nearest residence was approximately ¼ mile away on 161st Street.

Protestants: None.

Board Comments:

Mr. Lewis asked Mr. Flournoy approximately how long it would take to complete construction on the residence. Mr. Flournoy replied that he was anticipating approximately one year.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 3-0-0 (Lewis, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.6 - Mobile Homes - Under the Provisions of Section 1680) to permit a mobile home in an RD District, for a period of one year, removal bond required, on the following described property:

The East 200' of the N/2, NW/4, SW/4 of Section 11, Township 19 North, Range 14 East, Tulsa County, Oklahoma.

OTHER BUSINESS:

- Interpretation by the Building Inspector on Freeway Setbacks.

Presentation:

Mr. Jones submitted to the Board copies of the Board of Adjustment Minutes of June 15, 1978, Meeting No. 24, pertaining to a legal opinion concerning setbacks from streets, highways, expressways, and service roads to which was attached correspondence dated April 21, 1978, from Alan Jackere to the Board regarding Opinion No. 78-10 Title 42 - Setbacks from Streets, Highways, Expressways, and Service Roads (Exhibit "O-1").

Mr. Johnsen advised the Board that a distinction can be made between a service road to which you have access and a ramp or similar portion of the expressway system, which does not permit access to abutting properties.

Board Action:

On MOTION of SMITH and SECOND by VICTOR, the Board voted 3-0-0 (Lewis, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to interpret that it be deemed a service road if it has access legally allowed and if it does not allow access legally, then

Interpretation by the Building Inspector on Freeway Setbacks (continued)

it is not a service road, but a ramp or similar portion of the expressway system.

There being no further business to come before the Board, the Chair adjourned the meeting at 4:57 p.m.

Date Approved September 17, 1981

  
Chairman

ATTEST:

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Secretary