

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 846
Tuesday, July 23, 2002, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal
Cox, Neighborhood
Inspections

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Friday, July 19, 2002, at 3:30 p.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair, White called the meeting to order at 1:00 p.m.

*****.

Mr. Jim Beach read the rules and procedures for the Board of Adjustment Public Hearing.

CONTINUATIONS and CASES WITHDRAWN

Case No. 19381

Action Requested:

Appeal from decision of Tulsa Preservation Commission in granting a Certificate of Appropriateness to allow a five unit apartment building, located NW/c 17th Pl. & S. Quincy Ave.

Presentation:

Brent Capehart, 1417 E. 20th, stated he is the Vice-President of the Swan Lake Association. He added that he was unaware of the withdrawal of the appeal. He did not want the neighborhood to lose the opportunity to be heard.

Comments and Questions:

Mr. Beach responded that the issue was to appeal the decision of the Tulsa Preservation Commission granting a Certificate of Appropriateness for a five-unit apartment building. The TPC withdrew their approval of the request, so there is now nothing to appeal.

* * * * *

Case No. 19391

Action Requested:

Variance of maximum required rear yard coverage from 25% to 54% in an RS-2 district. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located 1230 Hazel Blvd.

Presentation:

Mr. Beach stated the applicant has requested a continuance to August 27, 2002. An attorney for one of the protestors has agreed to that date.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 3-0-0 (White, Dunham, Turnbo "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **CONTINUE** Case No. 19391 to the meeting on August 27, 2002.

* * * * *

Mr. Cooper arrived at 1:10 p.m.

Case No. 19411

Action Requested:

Variance of permitted signage in an OM district. SECTION 602.B.4. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions, located 2424 E. 21st St.

Presentation:

Mr. Beach announced the request for a continuance to August 27, 2002.

Mr. Johnsen stated that after he filed this application he determined that he might have a conflict of interest. He has withdrawn from the case. Mr. Charles E. Norman has been hired and will prepare to present the case.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19411 to the meeting on August 27, 2002.

* * * * *

MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the Minutes of July 9, 2002 (No. 845), as amended.

UNFINISHED BUSINESS

Case No. 19394

Action Requested:

Review and approval of an amended site plan previously approved with conditions (BOA #19056), located 1432 S. Rockford.

Mr. Beach reminded the Board that this case was continued so the applicant could prepare a drawing of what has actually been built. He submitted a copy to the Board (Exhibit A-1). There are differences in the original site plan and the work that was actually done.

Presentation:

Beth Mathers, 1401 E. 15th St., stated the Board required the asphalt to be five feet from the property line, and it is five feet from the property line. Before they started digging for the wall she instructed them to check with the neighbor on the north side and make sure they placed the wall in exactly the right place to satisfy the neighbor, and he pushed it in two feet. She stated that she put in nicer trees than were originally listed. The Photinias were taken out. Ms. Mathers informed the Board she met with several people from the City regarding the water drainage. They wanted her to put in a large pipe for drainage along the wall and take out the Photinias. She added some Nandinas against the wall and changed out the dogwoods because there is too much sun there. She told the Board that on the west instead of a new fence, they rebuilt three quarters of the old fence as approved by the neighbor, Mary Lee. She stated that when they were building the masonry wall the inspectors red tagged it three times.

Ms. Perkins arrived at 1:18 p.m.

Comments and Questions:

Ms. Turnbo asked who maintains the parking lot. Ms. Mathers replied that she does. She added that she used a lawn service but now her maintenance crew will be doing it. Ms. Turnbo questioned her on why she did not follow the plan but went by what the neighbor wanted. Ms. Mathers responded that she was trying to please the neighbor.

Interested Parties:

Stephen Walter, 1428 S. Rockford, expressed concern that the activities have not gone as planned. He feels that those in charge of following the Board Action on this case have not complied. He indicated there was no building permit posted. The change in elevation and drainage has caused water run-off onto his property. Mr. Walter stated they did not do a survey before building the wall. There was no pre-inspection, no rebar inspection, and no rebar in the footing. The wall was

supposed to be 135' long, but it is only 123' long. The wall is supposed to have split-face concrete block and it does not have it on the north side. He added that there is not a five foot space beside the wall for proper landscaping. The west fence was supposed to be replaced with a new fence, but it was partially repaired.

Mike Clarty, 1415 S. Rockford, stated that the fence was not built to code. He would like to see the project completed as approved by the Board.

Gayna Byrne, 1427 S. Rockford Ave., expressed concern for property values. The job was not done correctly and needs to be redone.

Kevin Cox, 111 S. Greenwood, stated he is with City of Tulsa Neighborhood Inspections. He noted there was no on-site water distribution to water the plants. The building permit was issued after the construction started. He asked the Board that a reasonable time limit be set that the project could be completed correctly, so they can enforce the codes. They are receiving numerous complaints about the property. He was aware of two red tags on the wall construction because of the footing inspection, and finding no rebar in it. He added that the vegetation was heavily overgrown and would attract snakes and rodents.

Applicant's Rebuttal:

Ms. Mathers responded that they have cleaned up the property and they plan to put in sod in the area next to the wall. She stated that she made arrangements with Mr. Rehorn to have his employees pick up trash around the parking lot in the mornings. Ms. Turnbo suggested that it would be better to have it picked up at night before it blows around the neighborhood.

Comments and Questions:

Mr. Cooper asked Ms. Mathers why she took out the Photinias. She explained that the City told her to take out the Photinias where the drain was put in. She added that on the plans they gave to the City they were not in there, and the City approved them. She stated she was going to put in some bushes, which would do better than large trees. Ms. Perkins reminded her that the Board told her she had to put the landscaping in. Ms. Mathers replied that the City told her not to put the trees in there.

Mr. Cooper asked if someone in the City Storm Water Department has the right to change the plan approved by the Board of Adjustment as it relates to storm water issues. Mr. Boulden responded that they do not, but it appears to be competing areas of jurisdiction. Mr. Cooper commented that the sprinkler system has not been put in yet. He also noted that the fence was not new as required.

Board Action:

On **MOTION** of Turnbo, **Seconded** by Perkins to **DENY** a Review and approval of an amended site plan previously approved with conditions (BOA #19056), with

Variance of the required front setback from 65' from center of street to 55' to center of street for new dwelling. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 3245 S. Florence.

Presentation:

Pat Fox, 320 S. Boston, stated he is the architect for the project. He informed the Board that the previous zoning was RS-2, and changed to RS-1. The original house on the property was removed and they propose to build a new one on the same site. It would be consistent with the setbacks of the other houses on the street. The hardship is that the zoning has changed since the other houses were built. A site plan and letters of support were submitted (Exhibits D-1 and D-2).

Comments and Questions:

Mr. Cooper noted an elevation in the back yard that could also make a hardship.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required front setback from 65' from center of street to 55' to center of street for new dwelling, per plan, finding it would be consistent with the neighborhood where the other houses were built before the zoning code changed, on the following described property:

Lot 16, Block 4, Ranch Acres, City of Tulsa, Tulsa County, State of Oklahoma.

*.***.***.***.***.

Case No. 19406

Action Requested:

Variance of the allowable height for a sign from 50' to 65' with a setback from the centerline of Memorial to 101'. SECTION 1221.E. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CG, CH, CBD, IL, IM, and IH Use Conditions for Business Signs – Use Unit 21, located 3901 S. Memorial.

Presentation:

James Adair, 7508 E. 77th, stated he was representing Thomas Cadillac. There is a two-year old changeable message sign on the southwest corner of the lot. During the street construction and changing the entrance to the Broken Arrow Expressway on Memorial, a new PSO utility pole was erected in front of the Thomas Cadillac sign. The pole has already caused the public to misread the sign, and they have received numerous calls about it. They propose to increase the height and increase the setback. A site plan, photographs and a sign plan were provided (Exhibits E-1, E-2, and E-3).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the allowable height for a sign from 50' to 65' with a setback from the centerline of Memorial to 101', per plan, finding the hardship to be the elevated expressway and the location of the PSO pole, on the following described property:

Lot 1, Block 1, Bond II Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 19407

Action Requested:

Variance of required front yard from 50' to 40' to permit a garage. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6; a Variance to permit a detached accessory building in the front yard. SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions; and a Variance of required side yard from 5' to 0' to permit a carport in an RS-3 district. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts, located 1343 E. 20th St.

Turnbo out at 2:29 p.m.

Mr. White stated he would abstain from Case No. 19407.

Presentation:

Michelle Falkenstein, 3319 S. Yorktown, stated she represents the architectural firm and the owners, Jim and Donna Murray. She stated they received the Certificate of Appropriateness from the Tulsa Preservation Council, which she promised to take a copy to INCOG for the file.

Turnbo returned at 2:31 p.m.

Ms. Falkenstein submitted a site plan and photographs (Exhibit F-1). She pointed out the steep terrace up the driveway to the house, and a retaining wall that protrudes to hold the stone terrace. She informed the Board that the studio apartment at the back has never been a garage. There has not been a garage on this site. The plans were prepared to be consistent with the character of the neighborhood. This would give them a carport and better access to the house. She submitted a petition (Exhibit F-2) with signatures of forty neighbors in support of the application.

Comments and Questions:

Ms. Turnbo thought it was a very appropriate design for the neighborhood.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a ***Variance*** of required front yard from 50' to 40' to permit a garage; a ***Variance*** to permit a detached accessory building in the front yard; and a ***Variance*** of required side yard from 5' to 0' to permit a carport in an RS-3 district, per plan, finding it is HP zoning, and finding the elevation differences, it would be difficult to do any other way, on the following described property:

Lot 7, Russell and Sills Re-Subdivision of Lots 15 – 16, Block 28, Park Place Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

Case No. 19408

Action Requested:

Variance of the required front setback from 25' to 17' for a distance of 25' per site plan for addition to warehouse. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 23, located 4640 S. 83rd E. Ave.

Presentation:

Charles E. Norman, 2900 Mid-Continent Tower, stated that he was representing the owner of the property. He submitted a final plat, and photographs, (Exhibits G-2 and 3). He pointed out the unusual design on the curved street. They platted an eyebrow cull deeper into the property than would have been necessary to achieve the same curve. It does not appear on the other side of the property. They propose to build an addition to the existing warehouse. He submitted a letter of support (Exhibit G-4) from Tom McCartney, owner of the property immediately to the north of the auto shop. A site plan was provided (Exhibit G-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required front setback from 25' to 17' for a distance of 25' per site plan for addition to warehouse, per plan, finding the unusual configuration of the eyebrow on the street in front of this building, on the following described property:

Lots 2, 3 and 4, Block 1, Richpark Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 19409

Action Requested:

Special Exception to allow a manufactured home in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 6 & 9; and a Variance to allow two dwelling units on one lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 5153 W. 12th St.

Presentation:

Reva Akee, 5343 W. 12th St., stated she owns this property and she has a developmentally disabled daughter that lives in the small house. She proposes to place a manufactured home on the property for herself, her son and his wife. They help in the care of her daughter. They talked with the neighbors and no one objected. They would use the existing driveway. They propose to place home on a permanent foundation and pave for two parking spaces, as required. A site plan and photograph were submitted (Exhibits H-1 and H-2).

Comments and Questions:

Mr. Cooper asked if the property is in the flood plain. Ms. Akee replied that according to her insurance company it is not in a flood plain. Mr. Dunham noted that the precedent had been set for manufactured homes in the area. Ms. Turnbo informed the applicant that since she did not ask for an extension of the time for a manufactured home it would be allowed for one year.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to allow a manufactured home in an RM-2 district; and a ***Variance*** to allow two dwelling units on one lot of record, per plan, finding the lot is large enough to support two dwellings and the configuration of the lot would make it difficult to split, and to **CONTINUE** to the meeting on August 13, 2002 for an extension of time for a manufactured home on the property described as follows:

S 43.00' Lot 7 and S 43.00' Lot 8 and all Lots 9 and 10, less E 2.50' S 140.00' Lot 9 and less S 140.00' Lot 10, Block 2, Vern Subdivision #2, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 19410

Action Requested:

Variance of the required setback from R zoned districts from 75' to 0' and from 10' where R district is a freeway to 0'. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 10; a Special Exception to waive the screening requirement along the lot lines in common with an R district. SECTION 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; a Variance of the 5' landscape strip requirement between off street parking areas and abutting residential areas to 0'. SECTION 1002.A.3. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements; and a Variance of 15% street yard landscaping to 0%. SECTION 1002.A.1. and 3. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements, located S side of Gilcrease Exp. E side of Sheridan Rd.

Presentation:

Darin Akerman, 6111 E. 32nd Pl., stated he was representing the developer for the proposed site. A site plan was provided (Exhibit I-1). There is a canopy proposed to cover a majority of the site basically to the property lines except the Sheridan Rd. frontage. There is abutting residential property, the Gilcrease Expressway and City of Tulsa owned property, but they are not typical residential zoning districts. They would not expect the canopy facility to cause any negative impact on those properties. The hardship would be the adjacent uses are very unlike typical residential uses.

Comments and Questions:

Mr. Cooper asked why there are no landscaping plans. Mr. Akerman responded that the developer is willing to meet or exceed landscaping requirements. Along the expressway are numerous trees and the expressway is about twenty feet below the elevation of the subject site. Mr. Cooper asked where they are asking for a variance of street yard landscaping to 0%. Mr. Akerman responded the variance request is for all but the west side on Sheridan Rd., which would be fully landscaped. Mr. Beach brought up the point that even though it is a surface parking the canopy makes the facility more like a parking garage.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of Dunham, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required setback from R zoned districts from 75' to 0' and from 10' where R district is a freeway to 0'; a **Special Exception** to waive the screening requirement along the lot lines in common with an R district; a **Variance** of the 5' landscape strip requirement between off street parking areas and abutting residential areas to 0'; and a **Variance** of 15% street yard landscaping to 0%, per

plan, with the exception of the variance of the 15% street yard landscaping apply only to Gilcrease Drive and the Sheridan frontage will require the necessary landscaping; landscaping requirements for surface parking lots would not apply to this because of the canopy, and condition that if the canopy were ever removed the surface landscaping requirements would then apply, finding the hardship being the residential areas are not typical, but expressways or potential detention ponds and highly unlikely that any residential development will ever occur, and the interpretation as it relates to the surface parking applies only to this case and should not be interpreted for future cases, on the following described property:

A part of the W/2 NW/4 of Section 26, T-20-N, R-13-E, of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Commencing at the SW/c of said W/2 NW/4 of Section 26; thence N 01°18'08" W along the W line of said Section 26 for a distance of 690.00' to the POB; thence N 01°18'08" W along the W line of said Section 26, a distance of 391.25'; thence N 88°45'25" E parallel to the S line of said W/2 NW/4 a distance of 250.00' to a 3/8" iron pin with cap; thence N 01°18'08" W parallel to the W line of said Section 26 a distance of 160.74' to a 3/8" iron pin with cap; thence S 71°51'38" E along the Sly right-of-way line of Gilcrease Dr. Exp. a distance of 270.16' to a 3/8" iron pin with cap; thence S 10°23'18" W a distance of 472.30' to a 3/8" iron pin with cap; thence S 88°45'25" W parallel to the S line of said W/2 NW/4 a distance of 409.06' to the POB.

*****.

Case No. 19412

Action Requested:

Release of tie contract required as a condition of approval on BOA No. 15254; and a Special Exception for a permit office use (11) in an RM-1 and RM-2 district (Tract 2 only). SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 7, located 1573 S. 79th E. Ave.

Presentation:

Gregory Alberty, 502 W. 6th St., stated he was representing the applicant, who is the current owner of both subject properties to the application. There was a tie agreement of the two properties approved by this Board in 1989. The applicants wish to sell Tract 1 and retain Tract 2. There is a provision in the tie agreement to allow automatic termination of the agreement for one or two conditions. The first condition is the platting of the lot and the second is that at such time it is unnecessary to combine the properties to meet the existing bulk area and parking requirements pursuant to the Tulsa Zoning Code. He informed the Board that they meet both the bulk area and density requirements for both properties standing alone, except for one, which are the density requirements for Tract 1. They have a pending lot split application to split off the east fifty feet of Tract 2 to remain tied to Tract 1 to satisfy that one condition. It would be a green space with no plans of that changing.

Comments and Questions:

Mr. Beach informed the Board that the release would only apply to Tract A on the site plan.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Release of tie contract*** required as a condition of approval on BOA No. 15254, with condition that lot split be approved by the TMAPC; and a ***Special Exception*** for a permit office use (11) in an RM-1 and RM-2 district (Tract 2 only), per plan, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Tract 1: Lot 1, Block 1, All of Woodbrook AND Tract 2: The N/2 SW/4 SE/4 NE/4 SE/4 N 20' of the S/2 SW/4 SE/4 NE/4 SE/4, all in Section 11, T-19-N, R-13-E of the IBM, all in City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No.19413

Action Requested:

Variance of required rear yard from 20' to 4.6' to permit an addition, which connects the house to an existing accessory building. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 1631 S. Delaware Pl.

Presentation:

William Elliott, 1631 S. Delaware Pl., stated he is the owner of the property. His wife and their designer were present also. They propose to add a new bath, bedroom and attach the existing garage, about 75 square feet.

Comments and Questions:

Mr. Beach informed the applicant that he would need to ask for relief on the side yard on the north side of the garage.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a

Variance of required rear yard from 20' to 4.6' to permit an addition, which connects the house to an existing accessory building, per plan, finding this is an older neighborhood and the project is consistent with the neighborhood; and to **CONTINUE** Case No. 19413 for additional relief to the meeting on August 13, 2002, on the following described property:

Lot 17, Block 6, Avondale Addition to City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 19427

Action Requested:

Request the Board to ratify the submitted survey as being in compliance with the plan contemplated in Community Development Plan (CDP) 69, located East 67th Street South and South Zunis Avenue.

Mr. Beach reminded the Board that CDP's were the precursor to PUD's. They had no site plans in the record. Mr. Alberty now has a survey as built. Mr. White noted the survey was from a company that no longer exists. Mr. Boulden advised that for the purposes of this limited concern it would be acceptable.

Presentation:

Gregory Alberty, 502 W. 6th St., brought this case to the Board.

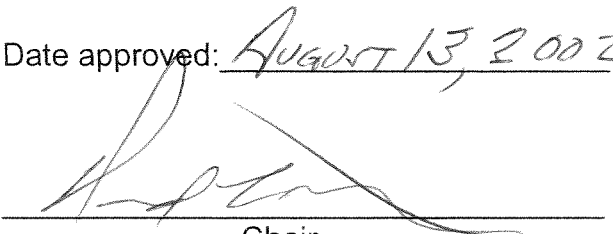
Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to Ratify the submitted survey as being in compliance with the Community Development Plan # 69.

*****.

There being no further business, the meeting was adjourned at 3:24 p.m.

Date approved: August 13, 2002


Chair