

BOARD OF ADJUSTMENT  
MINUTES of Meeting No. 179  
Thursday, January 9, 1975, 1:30 p.m.  
Langenheim Auditorium, City Hall  
Tulsa Civic Center

MEMBERS PRESENT

Blessing  
Guerrero (in 1:45 p.m.)  
Jolly, Chairman  
Purser, Mrs. (in 1:40 p.m.)  
Smith

STAFF PRESENT

Castro, Mrs.  
Edwards  
Gardner  
Jones

OTHERS PRESENT

Overton, Mrs.  
Building Insp.  
Office  
Pauling, Legal  
Department

Chairman Jolly called the meeting to order at 1:37 p.m. and declared a quorum present.

Minutes:

On MOTION of BLESSING, the Board (3-0) approved the Minutes of December 5, 1974 (No. 177).

(Purser and Guerrero in 1:40 and 1:45 respectively).

SPECIAL REQUEST:

8441

Action Requested: Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1004 - Public Protection and Utility Facilities) to erect an electric distribution substation in an RS-3 District located at 5400 East 66th Street.

Presentation: The Staff submitted to the Board a letter (Exhibit "A-1") from David McGuire, Co-Chairman of the Warrenton Homeowner's Association, requesting that the application be continued in order that the Association's attorney, who has a previous commitment this date, might represent them at the public hearing of the subject application.

Jay Hodges, representative for Public Service Company, objected to the requested continuance because of the time schedules and expense involved, at which time the Board advised Mr. Hodges that the Board, in most cases, will continue an application one time at the request of the applicant or the protestants.

Board Action: On MOTION of PURSER, the Board (5-0) continued application 8441 to January 23, 1975, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

UNFINISHED BUSINESS:

8414

Action Requested: Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to establish off-street parking for hospital use, and a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to permit hospital parking in an RS-3 District located south and east of 23rd Street and Harvard Avenue, and vacated Railroad right-of-way south of 24th Place to Broken Arrow Expressway.

Presentation: Tom Tannehill, representing the applicant and Doctors' Hospital, advised the Board that Lot 5 fronting 23rd Street and the vacated Railroad right-of-way north of 25th Street had been deleted from the subject application.

Mr. Tannehill presented a rendering of the parking layout and requested that the Hospital be permitted to establish off-street parking in conjunction with the Hospital on the subject properties. Mr. Tannehill pointed out that there are 235 beds within the Hospital and 408 employees at the present time, and additional parking is necessary and will be required when the new expansion is completed. At present there are a total of 496 parking spaces to be made available for Hospital parking purposes; however, this is not a sufficient number. He presented a booklet (Exhibit "B-1") containing the photographs of the Hospital and its surrounding area including the residential area, and advised that a traffic hazard is created at present by persons trying to get into the present Hospital parking lot. In discussing the photographs, Mr. Tannehill advised of the proposed location of the landscaping and berm that is to be provided as a 20' green belt to buffer the parking area from the adjoining properties. Mr. Tannehill reviewed the two tracts advising that Area A, south of 23rd Street, would accommodate 107 additional parking spaces, while Area B, the vacated railroad right-of-way, would accommodate 250 additional parking spaces to be used in conjunction with Doctors' Hospital. He further advised that a shuttle bus service between the hospital and parking areas is being contemplated, with security guards and overhead lighting being proposed for these areas.

Upon questioning by the Board, Mr. Tannehill advised that the building shown on the rendering is to be the general doctors' building, that the parking permitted

several months ago was used for off-street parking by the Hospital. Mr. Levy, for clarification, advised that the number of spaces permitted in February, 1974 has been found to be insufficient, explaining further that the initial estimates were based on the requirements of the Zoning Code which does not specifically recognize a hospital's parking problems. If the proposed parking (357 additional spaces) is permitted, the total number of parking spaces available for hospital use will exceed by 400 the number required by the Zoning Code.

When questioned by the Board as to how many apartment parking spaces would be required on Tract B which is zoned RM-2 if developed, Mr. Gardner advised that approximately 89 dwelling units would be permitted on the tract which would require a maximum of 178 parking spaces.

Mr. Levy advised that three other possible solutions had been reviewed in regard to the providing of additional parking for the Hospital's use; however, the proposed plan was felt to be the best solution because of the number of Hospital patrons automobiles that are parked on the residential streets. To this point, Mr. Gardner felt that the solution in regard to the purchasing of the Harvard Apartments with that property being used for off-street parking was the best solution from a pure planning standpoint.

In regard to the request for a variance, Mr. Pauling felt that this request being stated as an exception would be permissible as the Hospital itself is permitted in the Code as an exception.

Protests:

Nik Jones, attorney representing the residents in Area B, submitted to the Board a protest petition (Exhibit "B-2") containing the names of 20 residents in this area who object to Area B being used for off-street parking. Mr. Jones pointed out that the property was being sold by Frates Properties, who does not own the property; therefore, it was felt that Doctors' Hospital does not own the property under application for the requested variance. Mr. Jones further pointed out that the owners of the properties which abut the right-of-way own the right-of-way and Doctors' Hospital cannot purchase something from Frates Properties which Frates Properties does not own. If the subject request were granted, it was felt that additional traffic and noise would be created in the residential area, and he questioned why the Hospital had not developed a comprehensive plan similar to that developed by other hospitals in the City. Mr. Jones requested that the Board not

grant any further requests of the Doctors' Hospital, as the residential neighborhood would be detrimentally affected. He requested that the subject application be denied and advised that the property owners would file a quiet title action in court to prove ownership if the application is approved.

Mr. Pauling pointed out that the Board could not determine ownership of land and stated that relief is not granted to any individual--that the parking would be used for the property owners if the application were approved and if the Hospital does not own the property they could not use it. Mr. Pauling suggested that should the Board grant the request that the approval be limited to the Hospital. Mr. Pauling pointed out that the abandoned right-of-way seems to be in dispute and should the application be granted to Doctors' Hospital specifically, no adverse consequences could result, at which time Mr. Jones stated he did not agree.

Bruce Peterson, attorney for Walter Kelly the owner of Lot 9, Block 12 in Area A, advised the Board that a trust owns the properties within Area A and Mr. Levy owns the only share of interest in that trust, pointing out that Doctors' Hospital does not own the four properties in this particular area. Mr. Peterson felt that blockbusting by commercial development would occur in the residential area if the subject application were approved. If the Board desires to approve the application, Mr. Peterson stated that the residents request that a fence be provided and maintained and that security for the lot be provided after 5:00 p.m. He pointed out that the applicant, during the hearing of February, 1974 advised that no further requests for additional parking would be made, so the protests at that time were not pursued; however, the residents object to the additional parking being requested at this time.

Bob Mason, attorney representing approximately 30 protestants from the Jefferson Hills area, advised that the protestants feel that approval of the application will lead to commercial encroachment into the residential area. Mr. Mason questioned the Board as to the effect of a commitment made to the Board, at which time the Chair advised that if a commitment is a part of the order of the Board, it is then enforceable. Mr. Mason advised he was referring to the representation to the people by the applicant in February, 1974, that no further requests for additional parking would be made of the Board, at which time the Chair stated he did not recall that such a condition was imposed by the Board.

Mr. Mason then requested that the Minutes of that hearing in February be read. Mr. Gardner proceeded to read the Minutes of the hearing, advising Mr. Mason that the Minutes were not a transcript of the hearing, but only a summary and that the action of the Board did not include a statement that no future applications be filed regarding additional parking for the Hospital. Mr. Mason then submitted a map and one rendering. (Exhibit "B-3") of the proposals of the Hospital, advising that the rendering contains the signatures of 32 area residents who are not opposed to the parking being requested in Area B if certain conditions are met. Mr. Mason advised that these persons favor the parking area if it is landscaped, lighted, if access is controlled and adequate drainage is assured. He submitted a list of the conditions (Exhibit "B-4"), pointing out that the residents feel this would be more of an enhancement to the residential neighborhood than the existing wooded lot and apartment parking which are not maintained at present and can be seen from their residential properties.

Bert McElroy, attorney representing residents of Jefferson Hills, submitted a protest petition (Exhibit "B-5") containing the signatures of 120 area residents opposed to the use of Area A for parking purposes for the Hospital. Mr. McElroy advised that the property values in this addition have risen, that the neighborhood is well-cared for and well-maintained by the property owners, most of which are widows and retired persons.

Mr. Mason advised the Board that Block 4, located at the northwest corner of 21st and Harvard, is the only commercial tract in the neighborhood, pointing out that all requests for commercial zoning had been denied since 1942. He stated that no commercial development has taken place since 1965 when a restrictive covenant was adopted for a period of 10 years with automatic renewal at the end of the 10-year period. Mr. Mason felt that approval of the subject commercial activity would constitute a breach of that covenant, and felt that in reality the applicant was requesting a rezoning of the property.

Minnie Sheffer, 3510 East 23rd Street, advised the Board that she also attended the hearing in February, 1974 and was also under the impression that the applicant had stated that no additional requests would be made for off-street parking for Doctors' Hospital.

Dale Ritchie, 4008 East 23rd Street, advised the Board that each year he has paid taxes on property located to the centerline of the Railroad right-of-way, and further stated that the possibility of a traffic hazard should be considered by the Board prior to granting approval of the subject application.

Mr. Peterson advised the Board that Mr. Levy had admitted to the promise of no further parking applications which was made at the hearing in February, 1974, at which time the Chair pointed out that the motion as stated in the Minutes was the intent of the Board at that time and it did not contain a statement that no further applications would be entertained. Mr. Pauling advised the protestants that if an applicant's representation is not made a part of the motion of the Board then it is not considered legally binding since a unilateral promise does not establish the mutual intent which must exist to establish a contract.

W. A. Phillips, 3519 East 35th Place, stated that the neighborhood is one of private ownership which is a strong selling point to potential buyers of property within this area. He also felt that the intrusion of a commercial activity in the residential neighborhood would be detrimental to the neighborhood. Mr. Phillips advised the Board that he is a professional real estate appraiser with an MAI certificate and based his judgment of the value of the area on his real estate knowledge.

Chairman Jolly questioned the general values of other areas with similar situations, at which time Mr. McElroy advised that St. John's Hospital now had rental property and parking in the residential area and in time it will have a detrimental effect on the residences in that immediate area.

C. R. Fitzhugh, 2442 South Oswego, requested that the Board carefully consider the property which was withdrawn as he felt that a future application might be filed on those properties. In regard to the dispute concerning who owns a specific property and whether or not trespassing is involved, Mr. Pauling advised that the question of trespassing is a matter for a court of law and not the Board of Adjustment. Mr. Fitzhugh requested that no further action take place in the application until the questions concerning ownership have been resolved.

The Chair, on advice of counsel, stated that the Board will consider the relief, if granted, in regard to the right-of-way to be used by Doctors' Hospital only, not to run with the land.

Jane Carter, 2556 South Oswego, stated that she lived near Doctors' Hospital and if the applications as presented are approved then two parking spaces per bed will be allowed and this is not always a sufficient number when there is a critically ill person in the hospital when out-of-town relatives come to sit with the patient. She felt that the subject application should be approved to help relieve the current parking problems existing.

Robert Davis, 2514 South Oswego, advised the Board that he had lived in the neighborhood since 1959 and that he and approximately 15 other residents were present requesting that the subject application be denied.

Mrs. Meredith Kimbro, 3516 East 22nd Place, questioned the Board concerning the ownership of the property, at which time the Chair stated that he would not consider further discussion as to the ownership of the property.

Mr. Pauling suggested that if the Board should favor approval of the application, that the motion should reflect the fact that the relief is granted on the presumption that the property is owned by Doctors' Hospital, and that the relief will not apply if the property is owned by other than the Hospital.

In rebuttal, Mr. Tannehill advised that there is a definite parking problem in the area and that 32 employees of the Hospital were present in support of the request. Upon questioning by Board Member Smith as to whether or not this would be the final request for additional parking, Mr. Tannehill stated he was not authorized to make such a promise to the Board or the area residents.

Mr. Gardner suggested that if the application were to be approved, that the approval be made specifically based on the drawings and the application as presented.

Board Action:

On MOTION of GUERRERO, the Board (5-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to establish off-street parking specifically for Doctors' Hospital (assuming ownership) in Area B (Exhibit B-3), subject to the following conditions: that a full engineering study of the property be undertaken to insure adequate drainage to prevent water backing up into neighboring yards, that, if acquired the Hospital retain ownership of the property, that a small park area be dedicated to the City and maintained by the Hospital until the City accepts the park area, that a 20' setback on the south

and east boundaries of the property be maintained with landscaping to be provided within the setback, that an earthen berm (minimum of 3' in height) with decorative planting be provided on hospital land, that the parking lot be used during the day only, that low-level lighting be provided for early morning use, that the protestants be included in the reconsiderations in the event that access cannot be gained to 25th Street at the railroad track and entry to the lot on 26th Street is considered, that no storage building be provided, and that the Hospital provide free transportation between the Hospital and parking lot, all being requested by the protestants, in addition to the security guard, low-overhead lighting and landscaping as presented, thereby denying the Exception in Area A; and denied a Variance (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to permit hospital parking in an RS-3 District on the following described tracts:

AREA A:

Lots 1, 2, 3 and 4, Block 13, Jefferson Hills Addition to the City of Tulsa.

AREA B:

All that part of the S/2, S/2, NW/4 of Section 16, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, lying between the Easterly boundary of Harvard Apartments Addition, the Westerly boundary of Chandler-Frates Addition, and South of the South line of East 25th Street South, more particularly described as follows: Beginning at the Northeast corner of Harvard Apartments Addition; thence Southwesterly along the Southeasterly line of said Addition and along a curve to the right having a radius 755.01 feet, a distance of 106.97 feet; thence continuing on a tangent along the Southeasterly line of said Addition, a distance of 709.41 feet; thence continuing along the Southeasterly line of said Addition, and along a curve to the right having a radius of 601.47 feet, a distance of 118.75 feet to a point on the South line of the NW/4 of Section 16; thence Easterly along the South line of said NW/4, a distance of 468.05 feet to a point where the projection of the West line of Lots 7, 8, and 9, Block 5, Chandler-Frates Addition, intersects the South line of the NW/4 of Section 16; thence Northerly along the West line of said Block 5, a distance of 327.71 feet; thence Northeasterly, along



the Northwesterly line of said Block 5, a distance of 227.00 feet; thence continuing along said Northwesterly line of Block 5, and along a curve to the left, having a radius of 1041.67 feet, a distance of 202.85 feet to the South line of East 25th Street South; thence Westerly along the South line of East 25th Street South to the point of beginning.

In discussion of the action taken, Mr. Gardner questioned whether or not parking would be provided in the 20' buffer area, at which time Mr. Tannehill advised that there would be none. In regard to the landscaping and berming, a representative of the engineering firm for the applicant stated that the berm would be three feet high and provided in a manner that would permit proper drainage of the property. In regard to the park area that was to be provided, Mr. Tannehill advised that the Hospital would maintain the park area or the City of Tulsa would if they accepted the property for a park.

NEW APPLICATIONS:

8439

Action Requested: Exception (Section 610 - Principal Uses Permitted in Commercial Districts - Section 1017 - Automotive and Allied Activities) to sell farm tractors, cars, and farm equipment in a CS District located at 3205 South Yale Avenue.

Presentation: Ralph Grabel requested a 90-day extension of the Board's previous action wherein the application was denied and the applicant given 90-days in which to remove the equipment from the premises. Mr. Grabel advised the Board, in discussion, that a school bus is still in place on the property, advising that the previous action did not include school buses. Upon questioning by the Board in regard to the lot which the applicant owns on North Victor, Mr. Grabel advised that that lot was obtained for storage purposes only.

Protests: None.

Board Action: On MOTION of SMITH, the Board (5-0) denied an Exception (Section 610 - Principal Uses Permitted in Commercial Districts - Section 1017 - Automotive and Allied Activities) to sell farm tractors, cars, and farm equipment, advising the applicant that he had 10 days in which to remove all farm tractors, cars, farm equipment, buses, automotive equipment and automotive sales related equipment from the following described tract, in a CS District:

Beginning 560 feet South of the Northwest corner of the NW/4; thence East 140 feet; South 98 feet; West 140 feet; North 98 feet to the point of beginning in Section 22, Township 19 North, Range 13 East, Tulsa County, Oklahoma.

8440

Action Requested: Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to use property for church use in an RM-2 District located at 1320 South Cheyenne Avenue.

Presentation: Dr. J. D. Marketic, Board member of the Church, advised the Board that the subject application was filed to permit the selling of church books on the Church property, but not within the Church itself as has been the practice of the Church for a number of years. He pointed out that the Church is open seven days a week for the purpose of selling the books, and added that an outdoor advertising sign is used to attract persons to the Church and the bookstore.

1.9.75:179(9)

In discussion of the use, the Board determined that the bookstore was not a commercial use, but said to be an accessory use to the Church provided there were no signs.

The Chair advised Dr. Marketic that the sign would have to be removed and that no sign could be used for the new bookstore. Legal counsel advised that an advertising sign is for notice to the public, and if the use is accessory to the Church for the purpose of serving the members of the congregation, then no outside advertising is necessary.

Protests:

None.

Board Action:

On MOTION of SMITH, the Board (5-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to use property for church use with the understanding that no sign for the new bookstore will be posted on the property, in an RM-2 District on the following described tract:

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

Action Requested:

Exception (Section 710 - Principal Uses Permitted in Industrial Districts - Section 1014 - Shopping Goods and Services) to operate retail sales in an IM District located in the 7600 Block of Charles Page Boulevard.

Presentation:

Tom Landreth, attorney for Oscar Killian, described the area surrounding the subject property, pointing out that his client has a lease on the property which contains certain covenants which he read to the Board. He advised that his client is proposing to build a 50' x 150' building with the balance of the property to be utilized for parking in conjunction with the retail and auction sales to take place on the tract.

Upon questioning by the Board, Mr. Killian advised that the sales would be conducted inside the building and that the sales conducted would be bankrupt sales of office equipment, etc. Should the sale include machinery similar to a K-9 caterpillar which is too large for the building, the machinery would be stored on the rear portion of the tract.

Mr. Gardner advised the Board that this type of operation is considered appropriate within the IM District.

Protests:

None.

Board Action:

On MOTION of BLESSING, the Board (5-0) approved an Exception (Section 710 - Principal Uses Permitted in Industrial Districts - Section 1014 - Shopping Goods and Services) to operate an auction and retail sales as presented, in an IM District on the following described tract:

A tract of land lying in the SE/4, NW/4 of Section 7, Township 19 North, Range 12 East, Tulsa County, Oklahoma, more particularly described as follows:

Commencing at the Southwest corner of said SE/4, NW/4 of Section 7; thence North along the West line thereof a distance of 902.14 feet to a point on the Southerly Right-of-Way line of U. S. Highway 64; thence North  $69^{\circ}-52'-30''$  East along said Right-of-Way line a distance of 451.55 feet to the point of beginning; thence South a distance of 220.0 feet to a point; thence North  $64^{\circ}-55'-18''$  East a distance of 222.13 feet to a point; thence North  $00^{\circ}-19'-50''$  East a distance of 200.0 feet to a point on the said Southerly Right-of-Way line; thence South  $69^{\circ}-52'-30''$  West along said Right-of-Way line a distance of 215.50 feet to the point of beginning, containing .97 acre more or less.

8443

Action Requested: Exception (Section 250.3 - Modifications of the Screening Wall or Fence Requirements) for an extension of time to erect a screen where properties which are to be benefited by the screen are undeveloped in a CS District located at 6620 South Lewis Avenue.

Presentation: Alvin Bradsby, representing the owner, requested that the screening requirements not be imposed at this time as the properties surrounding the subject tract have not yet developed.

In discussion of the requirements of the screening, David Pauling, Assistant City Attorney, pointed out that the Board has the authority to waive the Code requirement pertaining to the screening where existing physical features provide visual separation or where the purpose of screening cannot be achieved. Mr. Gardner pointed out that the screening requirement might be extended at this time, but that the applicant would have to screen his property if the properties to the west develop as residential.

Protests:

None.

8443 (continued)

Board Action:

There being no objections, the Board (5-0) approved an Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) for an extension of time to erect a screening wall until the residential property abutting to the west is to develop residentially, in a CS District on the following described tract:

Beginning at a point on the East line of Section 6, Township 18 North, Range 13 East, Tulsa County, Oklahoma, 1984.20 feet North of the Southeast corner of Section 6; thence due North a distance of 400.00 feet; thence North 89°-59' West a distance of 250.00 feet; thence due South a distance of 400.00 feet; thence South 89°-59' East a distance of 250.00 feet to the point of beginning.

8444

Action Requested: Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 1005 - Community Services, Cultural and Recreational Facilities) to operate a children's day care center in an RS-3 District located at 239 East Zion Street.

Presentation: Linro S. Radford, the applicant, was not present.

Protests: None.

Board Action: On MOTION of SMITH, the Board (5-0) continued application 8444 to January 23, 1975, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

8445

Action Requested: Exception (Section 1480.1 - Special Exceptions) to establish off-street parking; an Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) to modify the screening requirements where an alternative screening will provide visual separation; and a Variance (Section 730 - Bulk and Area Requirements in Industrial Districts - Under the Provisions of Section 1470) for a variance of setback requirements from 75' to 3' in an IL District located at the northwest corner of 33rd Street North and Lewis Avenue.

Presentation: James Eagleton, attorney for the applicant, advised the Board that the existing operation is the fabrication of equipment and that a rezoning application was recently approved granting an additional 60' of IL zoning to the west for the expansion of the existing industrial operation. Mr. Eagleton advised that the

operation is short of parking and requested that his client be permitted to establish off-street parking on the tract in addition to establishing a 3' setback line rather than the 75' required, as the 75' setback requirement being met would not permit the expansion of the building as proposed. He requested that the screening requirement be modified to permit the erection of the screening fence 75' to the west.

In discussion of the requests, it was pointed out that there has been no residential development in the area for the past 10 years, and upon questioning, Mr. Eagleton advised that the off-street parking portion of the property would be hard-surfaced to meet the requirements of the Zoning Code and Board.

Protests:

O'Neill Cobb, 2224 East 33rd Street North, requested that the Board require the traffic from the operation to enter the tract from Lewis Avenue rather than from 33rd Street North which is a residential street. Also, because the area is residential, Mr. Cobb requested that the screening on the south and west be required because of the children in the area, who play on the operation's property and on their equipment. He also expressed concern that the application would encroach upon his property.

Vincent Ryan, speaking for Mrs. L. C. Latimer at 2205 East 33rd Street North, did not feel that an additional 50' of off-street parking should be permitted as there are only 10 employees which is not a great enough number to require 50 additional feet of parking. He further felt that the screening fence should be required prior to the construction of the expanded building as the operation and the tract, in his opinion, was detrimental to the value of his property and the surrounding area. Mr. Ryan advised that he had just redecorated his home and felt that it was now valued from \$35,000 to \$40,000.

Board Action:

Guerrero moved for denial of the application, permitting 25' around the building for parking if the 25' does not trespass into the adjoining property lines; however, the application was discussed at length and Board Member Smith felt that a 25' emergency lane should be located around the building for emergency purposes. The Board further discussed the proposed parking area with respect to the surrounding properties and the fact that the present property lines are in dispute, after which the following motion was made.

On MOTION of SMITH, the Board (5-0) continued application 8445 to January 23, 1975, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center, to await the plot plan and clarification of the requests being made.

Action Requested: Appeal (Section 1450 - Appeals from the Building Inspector - Variance - Section 1220 - Nonconforming Use of Buildings or Buildings and Land in Combination- Under the Provisions of Section 1470) for a determination of a nonconforming use and such variance as may be necessary to permit its continued use for commercial purposes in an RS-2 District located at 405 South 129th East Avenue.

Presentation: Roy Johnsen, attorney representing William Shull, submitted to the Board an affidavit (Exhibit "C-1") stating that the subject tract was purchased and the Central Heating and Furnace Company which was engaged in the sale, installation, repair and maintenance of heating units was commenced within the year 1958 and operated continuously until August, 1972. He further submitted the Planning Commission map (Exhibit "C-2") which was exhibited during the rezoning public hearing in November, 1964, and a page from the City of Tulsa Telephone Directory of 1959 (Exhibit "C-3") which shows the listing of the Central Heating and Furnace Company as being in operation at that time.

Mr. Johnsen advised the Board that Mr. Shull purchased the property in 1973 and continued the operation of the Central Heating and Furnace Company. Mr. Shull now has a prospective purchaser for the property and wanted to be sure that the nonconforming use can be established. The present structure contains 2,800 square feet, the attached garage contains 500 square feet, and the prospective buyer is proposing to construct a closed storage structure which will contain an additional 300 square feet.

David Pauling, Assistant City Attorney, advised the Board that the Zoning Code states that no building devoted to a nonconforming use shall be enlarged or extended except in changing the use of the building to a use permitted in that district in which it is located, at which time Mr. Johnsen advised that the use will not be abated but that it will be continued, pointing out that he was requesting a variance of an extension for a nonconforming use as has been granted in the past in cases similar to the subject application, not a change in use. Upon questioning, Mr. Johnsen advised that the trucks would not be stored in the proposed enclosed storage building.

Protests: None.

8446 (continued)

Board Action:

Smith moved that the decision of the Building Inspector be reversed, that the use be found to be nonconforming, that the use is included in Use Unit 15, and that the additional square footage be permitted as requested and that a sign not to exceed 32 square feet in size be permitted. This motion dying for lack of a second,

on MOTION of GUERRERO, the Board 4-1 (with Smith voting "nay") reversed the decision of the Building Inspector, and determined the use to be a nonconforming use, that the use is included within Use Unit 15, and that a sign be permitted not to exceed 32 square feet in size in an RS-2 District on the following described tract:

Lots 10 and 11, Block 3, Meadow Brook Heights Addition to the City of Tulsa, Oklahoma.

8447

Action Requested: Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1470) for a variance of setback requirements from 50' to 34.6' in an RS-2 District located at the southwest corner of 26th Street and Peoria Avenue.

Presentation: Floyd Roberts advised the Board that he had entered into a contract to purchase the subject property, and that he was requesting a variance of the setback requirements from 50' to 34.6' from the centerline of Peoria Avenue in order that his proposed structure might align with other structures on Peoria Avenue. He submitted a packet of photographs (Exhibit "D-1") pointing out the homes with which he wishes to align and their setbacks from the street. He also submitted a plot plan (Exhibit "D-2"), pointing out the exact location of his residence that he is proposing.

Protests: None.

Board Action: On MOTION of SMITH, the Board (5-0) approved a Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1470) for a variance of setback requirements to permit the erection of a residence to within 40 feet of the centerline of Peoria or 5' from the existing east property line, in an RS-2 District on the following described tract:

Lot 1, Block 11, Sunset Terrace Addition to the City of Tulsa, Oklahoma.



8448

Action Requested: Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.2 - Home Occupations) to have a law office in a residence in an RM-1 District located at 1153 North Hartford Ave.

Presentation: Caesar Latimer requested permission to operate his law practice in his home as a home occupation, advising that he owns both sides of the duplex in which he lives and that the duplex would be considered as one dwelling.

Protests: None.

Board Action: On MOTION of BLESSING, the Board (5-0) approved an Exception (Section 410 - Principal Uses Permitted in Residential Districts - Section 440.2 - Home Occupations) to operate a law practice as a home occupation in an RM-1 District on the following described tract:

The South 40 feet of Lot 6, Fairview Resubdivision of Lot 2, Block 15, to the City of Tulsa, Okla.

8449

Action Requested: Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) for a waiver of fencing requirements along the east side of 69th East Ave., in a CS District located south and west of 69th East Avenue and 71st Place.

Presentation: Gale Plummer, representing the owner, submitted the plot plan (Exhibit "E-1") to the Board and requested that the screening requirement be waived on the east side of the property, pointing out that directly to the east of the subject property is 69th East Avenue and then abutting 69th East Avenue are duplexes. He stated that the south would be fenced and that the request concerns only the east side. Upon questioning, Mr. Plummer advised he did not know if the trash receptacles would be maintained on the south of the building.

Protests: There were none present, but the Staff submitted three letters (Exhibit "E-2") requesting that the screening be required.

Board Action:

On MOTION of SMITH, the Board (5-0) approved an Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) waiving the screening requirement on 69th East Avenue with the exception of the south 18' in order that any trash receptacles might be screened at this location, in a CS District on the following described tract:

All that part of Lot 2, Block 2, Kirkdale Commercial Center, Block 2, an Addition to the City of Tulsa, Tulsa County, Oklahoma, more particularly described as follows, to-wit:

Beginning at the southeast corner of said Lot 2, Block 2; thence due West along the common boundary of said Lot 2 and Kirkdale, an Addition in Tulsa, Tulsa County, Oklahoma, a distance of 206.0 feet; thence South  $72^{\circ}-32'-47''$  West along the common boundary of said Lot 2 and Kirkdale, an Addition in Tulsa, Tulsa County, Oklahoma, a distance of 23.18 feet; thence North  $00^{\circ}-02'-41''$  West a distance of 267.77 feet to a point, which point is the southwest corner of Lot 1 said Block 2; thence due East along the common boundary of Lot 1 and said Lot 2, a distance of 175.36 feet to a point in the Westerly right-of-way line of South 69th East Avenue; thence along the common boundary of said Lot 2 and the Westerly right-of-way line of South 69th East Ave., South  $17^{\circ}-21'-15''$  East a distance of 95.15 feet; thence on a curve to the right having a radius of 525.0 feet a distance of 142.44 feet; thence South  $01^{\circ}-48'-31''$  East a distance of 30.01 feet to the point of beginning; containing 54,836 square feet or 1.2589 acres.

8451

Action Requested: Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) for a waiver of the screening requirements on the north, east and south property lines, and a Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Under the Provisions of Section 1470) to replace present canopy on north side of building with a drive-through canopy in an OM District located at 6465 South Yale Avenue.

Presentation: T. J. Sinclair, representing Warren Professional Building Corporation, submitted the plot plan (Exhibit "F-1") of the entire Saint Francis Hospital Expansion program, requesting that his clients be given permission to replace the present canopy which exists on the south side of the Warren Professional Building, and also that the screening requirements be waived because of the topography of the tract.

8451 (continued)

In discussion of the plot plan and the application, the Board determined that no action was necessary regarding the canopy replacement.

Interested Party: Samuel Moore, 5401 East 65th Street South, advised the Board that he was an interested party concerning the screening.

Board Action: On MOTION of SMITH, the Board (5-0) approved an Exception (Section 250.3 - Modification of the Screening Wall or Fence Requirements) to waive the screening requirements on the north, east and south property lines per plot plan in an OM District on the following described tract:

The Warren Medical Professional Center Addition, to the City of Tulsa, Oklahoma.

8453

Action Requested: Minor Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1430) to locate a sign 30' from the centerline of Lewis Avenue in a CS District located at 1715 North Lewis Avenue.

Presentation: Connie Keith submitted the plot plan (Exhibit "G-1") and requested that he be permitted to erect a sign 30' from the centerline of Lewis Avenue rather than the 50' required by the Ordinance. The Board was advised that other businesses in the area have signs which have been in place for some time and they encroach within the required 50' setback line.

Protests: None.

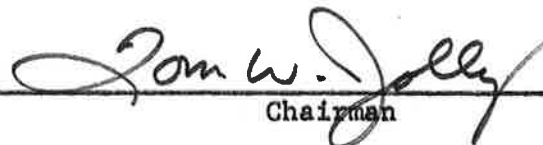
Board Action: On MOTION of SMITH, the Board (5-0) approved a Minor Variance (Section 280 - Structure Setback from Abutting Streets - Under the Provisions of Section 1430) to locate a sign 30' from the centerline of North Lewis Avenue, per plot plan, subject to the customary sign removal contract in a CS District on the following described tract:

Lot 486, Block 38, Tulsa Heights Addition to the City of Tulsa, Oklahoma.

There being no further business, the Chair declared the meeting adjourned at 6:15 p.m.

Date Approved

February 20, 1975

  
Chairman

1.9.75:179(18)