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A G E N D A

BOARD OF ZONING ADJUSTMENT

JUNE 22, 1978

CALL TO ORDER: 7:30 P.M. in the Commission Chambers of City Hall, 400 East Stewart Avenue, Las Vegas, Nevada.

ROLL CALL:

PLEDGE OF ALLEGIANCE:

OLD BUSINESS:

- 1. V-40-78 Application of MARY ASSURAS for a Variance to allow outside vehicle and materials storage on property generally located at the southwest corner of California Street and Casino Center Boulevard in Zoning District C-1. Outside storage of vehicles or materials is not permitted in the C-1 District.
(Abeyance Item from 5/25/78)
- 2. V-47-78 Application of ROBERT L. MOORE for a Variance to allow a 12 ft. 3 inch rear yard setback where 20 ft. is required on property located at 304 North 14th Street in Zoning District R-3.
(Abeyance Item from 5/25/78)

NEW BUSINESS:

- 1. HC-3-78 Appeal filed by GEORGE H. JONES from the provisions of the Uniform Housing Code relative to property located at 2025 Pinto Lane. (Applicant contends that adequate natural light and ventilation is provided in the kitchen, although the required window area of 13.05 sq. ft. is not met.)
- 2. V-48-78 Application of AUBREYL AND ELLEN SASNETT for a Variance to allow a seven foot four inch (7' 4") front yard setback where twenty feet (20') is required on property located at 630 N. 4th Street in Zoning District R-1.
- 3. V-49-78 Application of JOHN H. AND SHIRLEY S. ARNOLD for a Variance to allow a six foot (6') high decorative wrought iron fence in the front yard area where a maximum of four feet (4'), top two feet (2') 50 percent open is permitted on property located at 1254 Vista Drive in Zoning District R-E.
- 4. V-50-78 Application of the NEW LIGHT BAPTIST CHURCH for a Variance to allow an existing addition to the church ten feet (10') from the rear property line where twenty-five feet (25') is required on property located at 1165 Lawry Avenue in Zoning District R-2.
- 5. V-51-78 Application of JOHN LONETTI for a Variance to allow an addition to an existing residence eleven feet (11') from the side property line where fifteen feet (15') is required on property located at 1244 Park Circle in Zoning District R-1.
- 6. V-52-78 Application of SOPHIA G. THOMASON for a Variance to allow a room addition ten feet (10') from the rear property line where fifteen feet (15') is required on property located at 329 Greenfield Lane in Zoning District R-1.

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7. V-55-78 Application of JACK CHRISTIANSEN for a Variance to allow the rear fifty feet (50') of the property to be used to store metal material where only vehicle parking is allowed on property located at 3500 Meade Avenue in Zoning District "M".
8. V-56-78 Application of MORTON R. AND ROSALIND F. GALANE for a Variance to allow the construction of a six foot (6') high wrought iron and block wall fence in the front yard where a four foot (4') high, top fifty percent (50%) open is permitted on property located at 2019 Bannies Lane in Zoning District R-E.
9. V-57-78 Application of DANIEL S. HUSSEY for a Variance to allow the existing building 7.3 feet from the south side property line where 9 feet is required; to allow the existing building and an addition 3.7 feet from the north side property line where 5 feet is required with the existing eave overhang 2 feet from the side property line where 3 feet is required, and to allow the addition 14 feet from the rear property line where 15 feet is required on property located at 1131 Buehler Drive in Zoning District R-1.
10. U-46-78 Application of OWEN AND ISABELLA MAHONEY, on behalf of the FITZSIMMONS HOUSE, for a Use Permit to allow the operation of an adolescent male treatment program for potential or actual substance abusers on property located at 1718 West Bonanza Road in Zoning District R-E.
11. U-45-78(HO) Application of THOMAS ALBANESE at 116 Norlen Street in Zoning District R-1 for a Home Occupation Permit - Allow the operation of a mail order business.

MINUTES
BOARD OF ZONING ADJUSTMENT

JUNE 22, 1978

CALL TO ORDER: A regular meeting of the Board of Zoning Adjustment was called to order at 7:30 P.M. by Chairman Emmett in the Commission Chambers of City Hall, 400 East Stewart Avenue, Las Vegas, Nevada.

PRESENT: Chairman Emmett, Mrs. Segretti and Mr. Canul

EXCUSED: Mr. Duncan

STAFF PRESENT: Harold P. Foster, Acting Director, Department
Of Community Planning and Development
Ira John Gardner, Planning Assistant
Linda A. McIntosh, Recording Secretary

PLEDGE OF ALLEGIANCE:

MR. FOSTER stated the meeting had been posted according to the Open Meeting Law and that Mailed Affidavits are on file.

OLD BUSINESS:

I. V-40-78

(Abeyance Item
from 5/25/78)

APPROVED

Application of MARY ASSURAS for a Variance to allow outside vehicle and materials storage on property generally located at the southwest corner of California Street and Casino Center Boulevard in Zoning District C-1. Outside storage of vehicles or materials is not permitted in the C-1 District.

MR. FOSTER stated this item had been held in abeyance because it was indicated the applicant was requesting material storage whereas the previous notice stated the request was for vehicles and materials. The plot plan is as submitted. At the previous hearing it was pointed out that paved parking is required by Code and the applicant has only oiled paving. New notices have been sent out. Through the second notification, one letter of protest has been received from the Clark County Classroom Teachers Association who do not think this is a proper use.

DAVID KATZMAN stated they leased the property from Mary Assuras and added at the last meeting he requested the application for outside vehicle storage be deleted as they only are requiring outside storage of materials. He added the property has been improved from what it was. He presented pictures to the Board.

CHAIRMAN EMMETT asked if it would be materials storage only.

MR. KATZMAN replied that was correct.

PHIL WOLENSKY, part-owner, appeared seeking approval of the Variance.

ADA GARDNER, owner of property at 1221 Casino Center, appeared in protest, stating she was against outside storage of materials and this Variance, if approved, would open the area up to industrial.

CHAIRMAN SEGRETTI asked if anyone else wished to be heard; there being no one, she closed the public hearing close.

MR. FOSTER stated if the Variance is approved, the paved parking would not be a requirement if there is no vehicle storage.

MRS. SEGRETTI made a Motion for APPROVAL of V-40-78, subject to the following conditions:

1. Construct concrete sidewalk and street lighting on California and Casino Center Boulevard frontage. An approved engineering plan is required for this construction along with a bond covering installation as required by the Department of Public Services.
2. Show the types of vehicle and location of "vehicle storage" along with driveways existing and proposed as required by the Department of Public Services.
3. Landscaping and a permanent underground sprinkler system shall be provided as required by the Department of Community Planning and Development and shall be permanently maintained in a satisfactory manner. Failure to properly maintain required landscaping and underground sprinkler systems shall be cause for revocation of a business license.
4. Submittal of a landscaping plan prior to or at the same time application is made for a building permit.
5. Conformance to the plot plan.
6. Securing all necessary permits and licenses and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mrs. Segretti, Mr. Canul and Chairman Emmett
"NOES" None

Motion for APPROVAL carried unanimously.

2. V-47-78
(Abeyance Item
from 5/25/78)

APPROVED

Application of ROBERT L. MOORE for a Variance to allow a 12 ft. 3 inch rear yard setback where 20 ft. is required on property located at 304 North 14th Street in Zoning District R-3.

MR. FOSTER presented the staff report and stated this item was held in abeyance from the last meeting so the Board could look at the property because there had been some fill placed over the lot that reached above the adjoining properties to the north. They are proposing to move a building onto the property, which is not an item before this Board. The rear setback is the question. The Building Division has indicated that the drainage will have to be designed in such a manner as it does not drain onto the adjoining properties, which is one of the main concerns of the property owners to the north. If this is approved, staff would recommend conformance to the plot plan; drainage requirements be met, plus the normal conditions.

ROBERT L. MOORE stated that since the last meeting he had met with Mr. Canul and had shown him the property.

MR. MAURICE, 304 North 14th Street, stated the building was too large for the property and this building does not belong in the neighborhood.

JOE HEMPSTREET, 300 North 14th, stated he did not see how proper drainage could be accomplished and that the proposed project would create a parking problem.

MR. MOORE stated parking would comply with City requirements.

CHAIRMAN EMMETT asked if the parking was sufficient.

MR. FOSTER replied that it was, on a one to one basis.

MRS. SEGRETTI asked the applicant if he would meet the drainage requirements.

MR. MOORE replied he would conform to City requirements.

MR. CANUL stated he had surveyed the property in question and that it is a unique lot. Even with the fill that has been brought in, the lot is still 8" below the street.

MR. CANUL made a Motion for APPROVAL of V-47-78, subject to the following conditions:

1. The applicant construct concrete sidewalk on 14th Street frontage as required by the Department of Public Services.
2. Construct retaining walls on the north and east property lines to the height of the grade along the south property line.
3. Drainage of the lot shall conform to the requirements of the Building and Safety Division.
4. Conformance to the plot plan.
5. Securing all necessary permits and licenses and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion for APPROVAL carried unanimously.

NEW BUSINESS:

1. HC-3-78

APPROVED

Appeal filed by GEORGE H. JONES from the provisions of the Uniform Housing Code relative to property located at 2025 Pinto Lane. (Applicant contends that adequate natural light and ventilation is provided in the kitchen although the required window area of 13.05 sq. ft. is not met.)

MR. FOSTER stated this appeal resulted as a Housing Code inspection by the City in this area. It has been found that one of the violations is that there is no window in the kitchen which has been removed as a result of a patio being constructed on the rear of the property and enclosed basically with glass. About the only way you could have some type of window in the kitchen would be through a skylight. The applicant has taken the position that rather than construct the skylight there is ample light through the glassed-in patio area as well as the larger window in the livingroom. Staff feels the appeal is basically on the interpretation

of the Code, basically whether it has been properly interpreted. The Board has the right to waive that particular provision.

MS. DAINES stated the Housing Code provides certain requirements. On the light and ventilation requirement, it is based upon the square footage of each room. The Board of Zoning Adjustment is the final appeal body, by making a final interpretation of the Housing Code.

MRS. SEGRETTI asked if the City made a door to door inspection of the houses.

MR. FOSTER replied that they did in various areas on a priority basis.

MRS. SEGRETTI said she could not see how the City could do this.

GEORGE JONES, 1909 Westland, stated he owned the property in question and it is being rented out. He said when the patio was added the existing kitchen windows were blocked off. There is a six ft. sliding glass door and a window also. He said he thought there was ample light.

MR. CANUL asked how old the house is.

MR. JONES replied about 20 years old. He added he had corrected the other violations, putting a new roof on the house, and correcting the electrical wiring. He said he thought that asking for a skylight in a desert area was too much.

MR. CANUL made a Motion to GRANT the Appeal HC-3-78 as it was determined the lack of a window in the kitchen was not detrimental to the occupants of this residence.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion to GRANT Appeal carried unanimously.

2. V-48-78

APPROVED

Application of AUBREYL AND ELLEN SASNETT for a Variance to allow a seven foot four inch (7'4") front yard setback where twenty feet (20') is required on property located at 630 North 4th Street in Zoning District R-1 (Single Family Residence). The above property is legally described as Lot 3, Block 6, Bilmore Addition Annex #2.

MR. FOSTER presented the staff report and stated the plot plan shows the existing addition that was apparently erroneously added to the front part of the residence when the property owner was under the assumption that the curb line was the point where the setback is measured from. He did indicate on the building permit that he had the proper setback. During construction it was noted there was this discrepancy and there was not sufficient set-back from the front property line. There is no sidewalk, there is a rolled type curb with grass. There have been several inquiries on the property as the applicant does have several people renting at the present time. Under the Zoning Ordinance, you can rent up to 3 persons in a R-1 District. The request is basically for an addition to the residence, not additional units. There are two letters of protest on file.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

AUBREYL & ELLEN SASNETT, 630 North Fourth Street, were present.

MRS. SEGRETTI asked if the applicants lived on the property.

MR. SASNETT replied that they did and that the addition was for a family room.

MRS. SEGRETTI asked if rooms were rented out.

MR. SASNETT replied they did rent to 3 persons who were furnished private entrances and bathroom.

MRS. SEGRETTI asked if these were apartment units.

MR. SASNETT replied they are only small sleeping rooms.

MR. CANUL asked if a permit was issued.

MR. FOSTER replied that it had been, but that the setback had been measured from the curb line rather than the property line.

MR. CANUL asked if other properties in the area had the proper setback.

MR. FOSTER replied that they did.

MRS. SEGRETTI asked how recently the addition had been constructed.

MR. SASNETT said about one month.

MRS. SEGRETTI asked for staff recommendation.

MR. FOSTER said staff did not make one because basically the addition is there. It would be a determination by the Board of whether or not an honest mistake had been made.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MRS. SEGRETTI made a Motion for APPROVAL of V-48-78, subject to the following conditions:

1. Sign an Assessment District Agreement for future sidewalk as required by the Department of Public Services.
2. Light and ventilation be provided as needed for the existing building where new room would block windows and doors from original home as required by the Building and Safety Division.
3. Conformance to the plot plan.
4. Securing all necessary permits and licenses and satisfaction of City code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mrs. Segretti, Mr. Canul and Chairman Emmett
"NOES" None

Motion for APPROVAL carried unanimously.

3. V-49-78
APPROVED

Application of JOHN H. AND SHIRLEY S. ARNOLD for a Variance to allow a six foot (6') high decorative wrought iron fence in the front yard area where a maximum of four feet (4'), top two feet (2') 50 percent open, is allowed on property located at 1254 Vista Drive in Zoning District R-E (Residence Estates). The above property is legally described as Lot 4, Block 2, Hinson Heights.

MR. FOSTER presented the staff report and stated the request is for a 6' fence along the front of the property. It is a large lot, 300' deep. The Code requires a 4' fence in this front 50' of the setback area. To this time, no approvals or protests have been filed. Staff does not see any unusual or hardship situation to justify the request.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

JOHN & SHIRLEY ARNOLD were present. It was stated the fence was mainly wanted for protection purposes. The lot in question sits higher than the adjoining properties north and south. The driveway sets level with the lots and the house is up about 3'. In order to make the fence look nice it will be necessary to level off part of the lot. The fence would only be about 2½' across the lot and about 6' across the driveway. Across the front of the property it would be 2½' on one side and 4½' on the other side. They have had problems with burglars and do have two large dogs. Further, the wall will be decorative and will look nice.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-49-78, subject to the following conditions:

1. Applicant to sign an Assessment District Agreement for future street improvements excluding street lighting as required by the Department of Public Services.
2. Conformance to the plot plan.
3. Securing all necessary permits and licenses and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion for APPROVAL carried unanimously.

4. V-50-78

DENIED

Application of NEW LIGHT BAPTIST CHURCH for a Variance to allow an existing addition to the church ten feet (10') from the rear property line where twenty-five feet (25') is required on property located at 1165 Lawry Avenue in Zoning District R-2 (Two Family Residence). The above property is legally described as Lots 52D and 52E, Vegas Heights Tract #4.

MR. FOSTER presented the staff report and stated a Use Permit had been obtained for the Church and it was indicated on the proposed plot plan that the building was closer than the 25' required. It was pointed out that they would have to provide the required setbacks. The applicant later came in for an addition to the existing church, indicating the proper setbacks; however, during construction it was noted that the construction was 10' from the rear property line. There are no letters of approval or protest on record.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

REV. O.L. JEFFERSON, 804 Sunny Place, stated one of the main factors is that the addition is almost completed. He said they were not aware of what they were doing as they did not get the right supervisor. More than \$6000 had been put into this new addition when it was discovered the setback was in error.

MRS. SEGRETTI asked if the applicant had received a building permit.

REV. JEFFERSON replied that they had.

CHAIRMAN EMMETT asked who the contractor was.

REV. JEFFERSON stated the Church was doing its own construction. He added the plans had been laid out, but instead of the workmen going north, they went south.

MR. CANUL said he did not see how this type of mistake could be made. He said the layout was so simple, it could not be a hardship.

REV. JEFFERSON said it was done through ignorance and lack of supervision.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MR. CANUL made a Motion for DENIAL of V-50-78 because the Board found that the requirements of the Zoning Ordinance to allow the granting of a variance were not met.

Voting was as follows:

"AYES" Mr. Canul and Mrs. Segretti
"NOES" Chairman Emmett

Motion for DENIAL carried by a 2/1 vote.

5. V-51-78
APPROVED

Application of JOHN LEONETTI for a Variance to allow an addition to an existing residence eleven feet (11') from the side property line where fifteen feet (15') is required on property located at 1244 Park Circle in Zoning District R-1 (Single Family Residence). The above property is legally described as Lot 6, Block 2, Resubdivision of Westwood Park Tract 2.

MR. FOSTER presented the staff report and stated this is a R-1 lot which has a full street on three sides of it. They are proposing an addition to the side yard area along the westerly street side of the property. Due to the streets on the 3 sides, possibly the Board can make some determination where there is justification for this proposed addition. There are no letters of protest on file; however, there are two letters of approval.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

JOHN LONETTI stated they have the only house on Westwood. He said there is a large easement and the addition will still be 16' from the street.

MRS. SEGRETTI asked what the addition would be used for.

MR. LONETTI said it would be a diningroom and kitchen enlargement.

MRS. SEGRETTI asked what the size of the house is.

MR. LONETTI replied it is 3000 sq. ft. in size.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-51-78, subject to the following conditions:

1. Conformance to the plot plan.
2. Securing all necessary permits and licenses, and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion for APPROVAL carried unanimously.

6. V-52-78
APPROVED

Application of SOPHIA G. THOMASON for a Variance to allow a room addition ten feet (10') from the rear property line where fifteen feet (15') is required on property located at 329 Greenfield Lane in Zoning District R-1 (Single Family Residence). The above property is legally described as Lot 4, Block 2, Lewis Homes, Charleston #2.

MR. FOSTER presented the staff report and stated the location is in the westerly part of the City. The applicant wishes to locate 10' from the rear property line where 15' is required. It hasn't been too long ago that the Zoning Ordinance required a 25' setback. After receiving a lot of requests for additions, the Zoning Ordinance was subsequently amended to allow a reduced setback of 15'. This request is for an encroachment into the new setback area. Staff feels the 15' setback should be maintained and would recommend denial. There is one letter of protest on file.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

WALT & SOPHIA THOMASON were present. It was stated the addition would be used as a family room and that the neighbors had been contacted and had agreed it would appreciate their property as well as the applicants. The construction would be done by the applicant and the appearance would be up to code.

MR. CANUL asked how large the addition would be.

MR. THOMASON replied it would be 18' x 20'.

MR. FOSTER stated it would be 19' x 19½', as depicted on the plot plan.

MRS. SEGRETTI asked how close other variances had been granted.

MR. FOSTER stated 10' or so and on odd-shaped lots, 7' or 8'.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MRS. SEGRETTI made a Motion for APPROVAL of V-52-78, subject to the following conditions:

1. Conformance to the plot plan.
2. Securing all necessary permits and licenses and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mrs. Segretti, Mr. Canul and Chairman Emmett
"NOES" None

Motion for APPROVAL carried unanimously.

7. V-55-78

APPROVED

Application of JACK CHRISTIANSEN for a Variance to allow the rear fifty feet (50') of the property to be used to store metal material where only vehicle parking is allowed on property located at 3500 Meade Avenue in Zoning District "M" (Industrial). The above property is legally described as a portion of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section 8, Township 21 South, Range 61 East, MDB&M.

MR. FOSTER presented the staff report and stated this is in an industrial area. The Zoning Ordinance requires a 50' setback as a protective measure.

The applicant wishes to store material in connection with his business on this property. There is an existing building on the property. Staff feels the 50' setback should be adhered to for protection to the residential areas and would recommend denial. The applicant does have an 8' block wall fence adjacent to the mobile home park described in the staff report.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

PETER CHRISTIANSEN stated he would like to store steel items such as scaffolding, stakes, etc. He presented photographs of the property in question to the Board. He added he had contacted most of the residents that are to the rear of the property and had explained to them his proposal. No one was opposed to it. Nothing will be stored higher than the block wall. The business to each side of him are plumbing firms and they do have such variances on their property.

MR. CANUL asked the location of the fencing on the property.

MR. CHRISTIANSEN described the fencing arrangements using the plot plan.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-55-78, subject to the following conditions:

1. Conformance to the plot plan.
2. Securing all necessary permits and licenses and satisfaction of all City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion for APPROVAL carried unanimously.

8. V-56-78

APPROVED

-Application of MORTON R. AND ROSALIND F. GALANE for a Variance to allow the construction of a six foot (6') high wrought iron and block wall fence in the front yard where a four foot (4') high, top fifty percent (50%) open is permitted on property located at 2019 Bannies Lane in Zoning District R-E (Residence Estates). The above property is legally described as a portion of Block 6 of Scotch Eighty Addition (Resubdivision).

MR. FOSTER presented the staff report and stated a new single family residence is being constructed on the property in question. The plot plan is as submitted. Basically, staff takes the position that in these areas with large lots, it is a determination of the Board and the feeling of adjoining property owners. There would be concrete columns with decorative wrought iron inbetween. There are no protests on file.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

JIM JIMMERSON was present representing the applicant. He stated that staff had set forth the facts accurately. He said the applicant is going to great expense to upgrade the property. He added it is a nice neighborhood and the requested fence would aesthetically add to the area. They have checked with the neighbors and they do not object. He submitted a letter of approval from the owners of 1621 Birch.

CHAIRMAN EMMETT asked if anyone else wished to be heard; there being no one, she declared the public hearing closed.

MR. CANUL made a Motion for APPROVAL of V-56-78, subject to the following conditions:

1. Signing of an Assessment District Agreement for future street lighting and sidewalks as required by the Department of Public Services.
2. Close unused curb cut with curb and gutter as required by the Department of Public Services.
3. Conformance to the plot plan.
4. Securing all necessary permits and licenses and satisfaction of City Code requirements and design standards of all City departments.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti
"NOES" None

Motion for APPROVAL carried unanimously.

9. V-57-78
ABEYANCE

Application of DANIEL S. HUSSEY for a Variance to allow the existing building 7.3 feet from the south side property line where 9 feet is required and to allow the existing building and an addition 3.7 feet from the north side property line where 5 feet is required with the existing overhang 2 feet from the side property line where 3 feet is required and to allow the addition 14 feet from the rear property line where 15 feet is required on property located at 1131 Beuhler Drive in Zoning District R-1 (Single Family Residence). The above property is legally described as Lot 2, Block 2, McNeil Tract #3.

MR. FOSTER presented the staff report and stated the property in question is located in a R-1 subdivision. The request involves a proposed addition that is to serve as an enclosure over a swimming pool that is presently being constructed. The existing residence has certain setback violations. The setback violations along the north side of the property could be attributed to a provision of the Code that allowed the carport to be constructed within 3' of the property line provided that the carport was not longer than 22'. This one is longer. The applicant, at the time he applied for a permit indicated the proper setbacks. There was some uncertainty as to the correct property lines and the applicant felt he had the correct setbacks and applied for the permit. When this was brought to his attention, he immediately stopped construction and applied for a variance. Photographs were then submitted to the Board. There are two petitions, one of approval with 43 signature and one of protest with 33.

CHAIRMAN EMMETT declared the public hearing open and asked to hear from the applicant.

DAN HUSSEY, 1131 Beuhler Drive, stated he has lived at this address for 10 years. He stated the application has become a neighborhood squabble. He stated the house was constructed in 1959 and he is the third owner. He described the plot and the requested variances. He stated he had paid approximately \$700 for survey fees in an attempt to establish the property lines. This is difficult to do as there are no monuments in the streets. He stated his neighbor to the north is the one leading the protests. He added this neighbor's block wall is on his property. He also has a building which is on his property that is non-conforming. He added the reasons for the improvements to the house were due to the high cost of new homes. He added that prior to construction he had contacted the next door neighbor stating he wanted to go zero lot line. The neighbor agreed. He then went to an architect, had the plans drawn up, and presented them to the neighbor who again agreed. After receiving the building permit, he explained to the neighbor again what he was doing and again he agreed, so construction started. The pool is almost entirely in, 5000 used brick have been installed for pool decking and also some pourous columns. Some concrete is in and some framing is up. He added he had gone to all the neighbors within the 300' notification area and obtained their reactions to his development which resulted in approvals and some protests.

MARIE RIPPS, 2500 Sherman, appeared in approval of the application, stated she knew the applicants would do nothing detrimental to the neighborhood and that she did not find the proposal objectionable.

JACK SOULE, 2421 Sherman, stated he lived immediately north of the property in question. He read a letter he had sent to residents of McNeil Tract #3. The letter referred to a 10' block wall encroaching on his property as well as deed restrictions of McNeil Tract #3. He also mentioned that Mr. Hussey is a Deputy City Attorney. He added he had delivered just before the meeting six additional protests located within the McNeil Tract. He said they were not trying to cause a hardship to the applicant. He said the existing variance which were there before the new construction were not bothering anyone. He said the money which had been spent on the pool, which is too close, is not a hardship. The only hardship is if he continues to build the cover over the pool. He said as soon as the wall was raised, he had objected. He added he had had a registered land surveyor make a survey and submit it to the City. The property line is down the center of the wall. He said this was not a variance, it is enhancing Mr. Hussey's enjoyment of his property to the detriment of the public. He reiterated his one objection is the 10' wall that is being raised and does not object to the others or the location of the swimming pool.

ROBERT BILBRAY, Attorney for Mr. Soule, referred to the CC&R's of McNeil and enforcement of the City Code and asked that the variance be denied.

MR. HUSSEY appeared in rebuttal and stated he is a Deputy City Attorney which has been used against him and that he had not contacted any of the Board and had done nothing in anyway to influence anyone's decision.

CHAIRMAN EMMETT stated the merits of the variance itself were the concern before the Board.

MS. DAINES stated that if any legal question arose, it was the position of the City Attorney's office that this matter be held in abeyance pending legal advise from an outside source.

DAN MOSLEY, 1127 Westlund, appeared in approval of the application.

MR. CANUL stated he would like to look at the property in question.

MR. CANUL made a Motion for ABEYANCE of V-57-78 so the Board members could view the existing construction on the property.

Voting was as follows:

"AYES" Mr. Canul and Chairman Emmett

"NOES" None

"ABSTAIN" Mrs. Segretti

Motion for ABEYANCE carried by a majority vote.

10. U-46-78

ABEYANCE

Application of OWEN AND ISABELLA MAHONE, on behalf of the FITZSIMMONS HOUSE, for a Use Permit to allow the operation of an adolescent male treatment program for potential or actual substance abusers on property located at 1718 West Bonanza Road in Zoning District R-E (Residence Estates). The above property is legally described as a portion of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 28, Township 20 South, Range 61 East, MDB&M.

CHAIRMAN EMMETT announced she served as a member of the Board of Directors of Fitzsimmons House and asked the Deputy City Attorney if she should abstain.

MS. DAINES advised Chairman Emmett it would be proper to abstain on this matter and therefore, a quorum would not be present to hear the matter and further suggested that U-46-78 be held in abeyance.

MR. CANUL made a Motion for ABEYANCE of U-46-78.

Voting was as follows:

"AYES" Mr. Canul, Chairman Emmett and Mrs. Segretti

"NOES" None

Motion for ABEYANCE carried unanimously.

11. U-45-78(HO)

APPROVED

Application of THOMAS ALBANESE at 116 Norlen Street in Zoning District R-1 for a Home Occupation Permit - Allow the operation of a mail order business.

12. U-48-78(HO)

APPROVED

Application of DORIS LENORE WILLIAMS at 612 Bloomingfield Lane in Zoning District R-1 for a Home Occupation Permit - Allow general beauty counseling service.

13. U-49-78(HO)

APPROVED

Application of JOSEPH A. MANKAWICH at 2908 Holly Hill Avenue in Zoning District R-1 for a Home Occupation Permit - Allow one room in his home to be used as an office machine maintenance service office for record keeping and business phone calls.

MR. FOSTER stated the Home Occupation Permit questionnaires had been answered satisfactorily, everything is in order, and staff would recommend approval.

MRS. SEGRETTI made a Motion for APPROVAL of Items 11, 12 and 13, subject to the following conditions:

1. All advertising shall conform to the criteria for a Home Occupation Permit.
2. If a complaint is received regarding this operation, the surrounding property owners shall be notified and the Board will conduct a review and the approval may be rescinded.

Voting was as follows:

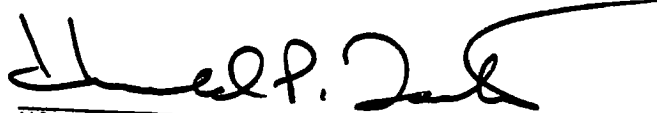
"AYES" Mrs. Segretti, Mr. Canul and Chairman Emmett
"NOES" None

Motion for APPROVAL carried unanimously.

ADJOURNMENT:

There being no further business to come before the Board of Zoning Adjustment the meeting was adjourned at 9:30 P.M.

DEPARTMENT OF COMMUNITY PLANNING
AND DEVELOPMENT



HAROLD P. FOSTER, Acting Director

/lm