

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 401
Thursday, December 1, 1983, 1:00 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT

Chappelle
Purser (in at 1:08 p.m.)
Smith
Victor
Wait (in at 1:04 p.m.)

STAFF PRESENT

Gardner
Jones
Wiles

OTHERS PRESENT

Hubbard, Protective
Inspections
Jackere, Legal Dept.,
(in at 1:52 p.m.)
Linker, Legal Dept.,
(out at 1:52 p.m.)

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, Tuesday, November 29, 1983, at 10:30 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Smith called the meeting to order at 1:02 p.m.

UNFINISHED BUSINESS:

Case No. 12864

Action Requested:

Variance - Section 240.2 (e) - Yards - Permitted Yard Obstructions - Request for a variance of the maximum permitted floor area ratio for a detached accessory building from 750 sq. ft. to 883.4 sq. ft. to permit erecting a garage in an RS-1 zoned district under the provisions of Section 1670, located at the NW corner of Zunis Avenue and 45th Place.

Presentation:

The applicant, Bill Blackburn, 221 East 20th Street, was not present.

Protestants: None.

Comments:

Mr. Jones informed he wrote the applicant a letter (Exhibit "A-1") telling him that the case had been continued. He thinks the applicant has more or less dropped the application. The Staff suggested denying this case without prejudice.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to DENY without prejudice a Variance (Section 240.2 (e) - Yards - Permitted Yard Obstructions) of the maximum permitted floor area ratio for a detached accessory building from 750 sq. ft. to 883.4 sq. ft. to permit erecting a garage in an RS-1 zoned district under the provisions of Section 1670, on the following described property:

Lots 3 and 4, Bolewood Acres Addition to the City of Tulsa,
Tulsa County, Oklahoma.

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1216 - Request for a Variance of the front setback requirement from 100 to 75 feet from the centerline of Lewis Avenue to permit an addition to an existing building in a CS zoned district under the provisions of Section 1670, located at the NE corner of South Lewis Avenue and East 59th Court South.

Presentation:

John Biola was represented by Thomas E. Rickey, P. O. Box 22298, Nashville, Tennessee. He informed that Mapco Petroleum recently acquired the subject property from the Osage Oil Company. They would like to install walk-in coolers to serve their market-- this variance would allow them to install this equipment. The way the building is situated on the property allows them to only expand toward the street. He informed that the canopy currently hangs over the building 6 feet, and the addition would extend about 4 feet beyond the existing canopy line. He submitted a plot plan (Exhibit "B-1").

Guy Bigham of Mapco Petroleum, Box 22298, Nashville, Tennessee, informed he is the Manager of the Design and Construction Department. He does not feel that this expansion will restrict the visibility of any traffic. The expansion will be built in an existing driveway on the property. The use of the property will not change and the addition will be similar to the existing structure.

Protestants:

Mr. C. S. Lewis, Bank of Oklahoma Tower, Suite 1500, P. O. Box 1046, was present representing London Square South. He informed that after looking at the plot plan, it appears to him that there is ample space in any of the other three directions to add an addition of the requested size without encroaching on the setback. He does not think that a hardship has been shown. He informed that this is a very nice neighborhood, and he found no other setback variances along Lewis. He does not want a new precedent set in this area of waiving the setback along Lewis.

Applicant's Rebuttal:

Mr. Biola informed that the present construction of the building and the present use of the property would prevent them from expanding to either side because those are the traffic lanes for the automobiles, which is their main business traffic. The rear part of the building is a stairwell that leads down to a basement and is not suitable for expansion for the top floor. Toward the street is the only direction they can expand in order to make this a larger building.

Comments:

Mr. Victor feels that something could be rearranged on the lot. He has not heard a hardship for the variance to be granted.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-1 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; Purser, "abstaining"):

Case No. 12880 (continued)

none, "absent") to DENY a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - under the provisions of Use Unit 1216) of the front setback requirement from 100' to 75' from the centerline of Lewis Avenue to permit an addition to an existing building in a CS zoned District under the provisions of Section 1670, on the following described property:

Lots 1 and 2, Block 1, L & M Square Addition, to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12885

Action Requested:

Variance - Section 410 - Principal Uses Permitted in Residential Districts- Use Unit 1217 - Request for a variance to permit building an auto parts store in an RM-2 zoned district under the provisions of Section 1670, located south of the SW corner of 11th Street and Xanthus Place.

Presentation:

Anthony Aaronson, 5324 South Peoria Avenue, was represented by Ken Gibson, 4821 South Sheridan Road. He informed this was continued to find out if there had ever been an adjustment or a ruling of this Board or some other board to permit commercial use of the RM lot. He informed that the Planning Staff could not find anything in the records to indicate that it had been approved. Mr. Gibson talked to Mr. Hugh J. Byers who was the owner of the property many years ago, and he stated that he purchased the location in 1943, and added the subject property to the location in 1949. He also stated that he asked for permission from the City to use the lot for commercial (ingress, egress, and parking) in about 1951 or 1952. Mr. Gibson submitted a letter which tells what Mr. Byers told him (Exhibit "C-1"). Mr. Byers felt sure that he had permission to make a curb cut and pave the lot. The present owner would like to continue using the property for commercial uses and would like to build a portion of his building on it. There will be 15 feet between the back of the proposed building and the adjoining RM-2 lot. The lots are on different levels and there will not be as much traffic on the subject property as there was when the service station was located on the lot. The house that faces this will not be facing near as much activity, traffic and congestion, or noise that it has had to face in the past.

Protestants: None.

Comments:

Ms. Purser stated she feels there is a great deal of difference between this lot being used as a parking lot and the lot being used to build a commercial building. She had trouble finding a hardship to grant the variance.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to DENY a Variance (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1217) to permit building an auto parts store in an RM-2 zoned district under the provisions of Section 1670, on the following described property:

Lot 29, Block 2, Ridgedale Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS:

Case No. 12899

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1206 - Request for a variance of the lot width from 60 to 55 feet to permit a lot split in an RS-3 zoned district under the provisions of Section 1670, located north of the NW corner of East 98th Street South and South 72nd East Avenue.

Presentation:

Douglas Techanchuk, 6605 East 79th Street, was present representing Master Built Homes, Inc. He informed that he owns lots 11 and 12 and has built a house on Lot 11 which is too close to the property line-- it is about 3 1/2 feet over the 5-foot setback on the north side. He would like to take 3 1/2 feet from Lot 12 and add it to Lot 11, thus making lot eleven 63 1/2 feet and making lot twelve 56 1/2 feet. This was approved by the Planning Commission.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-1 (Chappelle, Purser, Victor, Wait, "aye"; no "nays"; Smith, "abstaining"; none, "absent") to approve a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - under the provisions of Use Unit 1206) of lot width from 60 to 55 feet to permit a lot split (L-16021) in an RS-3 zoned district under the provisions of Section 1670, on the following described property:

Lot 12, Block 3, Spring Valley Addition to the City of Tulsa,
Tulsa County, Oklahoma.

Case No. 12906

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD, and RM Districts - Use Unit 1206 - Request for a variance of the setback requirement from the centerline of South 106th East Avenue from 48 to 39 feet to permit erecting a residence in an RS-3 zoned district under the provisions of Section 1670, located at the NW corner of South 106th East Avenue and East 38th Street South.

Presentation:

Gerald Snow, 800 North Lynn Lane, informed that this is a corner lot, and this variance is necessary to build on the lot. He informed that the proposed structure will line up with the houses to the west of it. He submitted a plot plan (Exhibit "D-1").

Protestants: None.

Comments:

Ms. Hubbard informed that the applicant can meet the average required setback on one side, but not on the other.

Mr. Smith informed the hardship would be the extreme narrowness of the lot and the imposed building lines.

Case No. 12906 (continued)

Board Action:

On MOTION of CHAPPELLE and SECOND by VICTOR, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Under the provisions of Use Unit 1206) of the setback requirement from the centerline of South 106th East Avenue from 48 to 39 feet to permit erecting a residence in an RS-3 zoned district under the provisions of Section 1670, per plot plan, on the following described property:

Lot 17, Block 6, Shannon Park 6th Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12913

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1206 - Request for a variance of the setback requirement from the centerline of East 62nd Street South from 50 to 46 feet to permit erecting a porte-cochere in an RM-1 zoned district under the provisions of Section 1670, located at the SW corner of East 62nd Street South and South Quebec Avenue.

Presentation:

Ron Percefull, 10733 East 61st Street, submitted a plot plan (Exhibit "E-1"). He represented Arrowhead Builders. He informed this is a corner lot on which he proposes to build a 4,300 square-foot home with a circular driveway on 62nd Street. The variance would allow them to build a porte-cochere over the circular driveway in front of the house and to extend 4 feet beyond the existing 25-foot setback line. There will be two pillars to support the overhang.

Protestants: None.

Board Action:

On MOTION of PURSER and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - under the provisions of Use Unit 1206) of the setback requirement from the centerline of East 62nd Street South from 50 to 46 feet to permit erecting a porte-cochere in an RM-1 zoned district under the provisions of Section 1670, per plot plan, on the following described property:

Lot 6, Block 2, Livingston Park South Addition to the City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS:

Case No. 12897

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in the Commercial Districts - Use Unit 1217 - Request for an exception to permit used car sales in a CS zoned district under the provisions of Section 1680, located at the NW corner of South 129th East Avenue and East 11th Street South.

Presentation:

Andrew Flynn, 1202 South 141st East Avenue, informed that they operated a car lot on the subject property several years ago. They need this exception because the new rule on licensing came about. He described the area and informed there is a used car lot down the street about 4 blocks away or half a mile away. He informed that the subject property is located at a very busy corner. He informed that the people on the SE corner of this intersection sell cars and trailers off of the location, but it is not zoned for that purpose. He would like to have 12 to 15 cars on his lot. There is a house behind the subject property that is zoned for commercial. They will not build any buildings on the lot and will operate part-time from daylight until dark, 5 or 6 days a week.

Protestants:

Carol Paulson, 950 South 129th East Avenue, informed that she is going to build a 4,800 square-foot commercial building as a silk flower shop on her property. She informed that the applicant put up a fence right along 129th, the south end being 23 feet and 4 inches from the centerline of 129th and the north end being 22 feet and 8 inches from the centerline of 129th. She informed that her proposed building will not be able to be any closer than 100 feet from the centerline of 129th. She has met all the City requirements, and she feels that with his fence being so close to the road, it will hinder the visibility of people coming from the south to see her new building. She informed that his property is subject to a plat just as hers was. She submitted a plot plan for her building. She informed that the applicant's fence is right on the ditch. The fence is a 6-foot chain link fence.

Applicant's Rebuttal:

Mr. Flynn informed that the protestant used to sell cars off of her property and still does. He informed that his 6-foot cyclone fence is on his property line. The protestant has gone back behind his property and built it up approximately 3 to 4 feet which will cause a water problem for him. He informed that he could build a solid fence if he wanted to which would probably cover the protestant's building up. He informed that he does not depend on this for a living. He would take the fence down if the Board wanted him to whether he had to or not.

Comments and Questions:

Mr. Gardner informed that the CH zoning in the northeast corner was zoned back when it was the old highway and there was only one zoning classification. There are no restrictions on that piece of property. Across the street they could have anything as a matter of right.

Mr. Smith informed that since the applicant does not intend to erect a building, he does not have to get a building permit. If he did, he would

Case No. 12897 (continued)

have to plat the property. He asked Mr. Gardner if the applicant needed a lot split.

Mr. Gardner informed that the zoning clearance permit keys this item. If the applicant has to get a zoning clearance or a building permit, either one, it will bring Section 260 into play. Even if the Board grants the use, the applicant cannot do anything until he satisfies Section 260. He informed that Section 280 deals with structures and a fence is a structure. Structures have to be set back 50 feet from the centerline. If he has a fence sitting closer than 50 feet from the centerline of 129th, he is in violation of Section 280.

Ms. Purser asked Mr. Gardner if a fence fits the definition of a structure. Mr. Gardner informed that it does and in order to utilize the property for commercial purposes, the applicant must have a Zoning Clearance Permit. When he applies for this, he will have to subdivide the property. When he does this, there will be 50 feet of right-of-way on both of the two major streets. If this was platted, the fence would be on City property.

Mr. Gardner informed the applicant would have the right to place the cars anywhere on his property after he has platted it. The Board can impose a setback if they want to.

Board Action:

On MOTION of WAIT and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 710 - Principal Uses Permitted in the Commercial Districts - under the provisions of Use Unit 1217) to permit used car sales in a CS zoned district under the provisions of Section 1680, for this owner only for a period of one year, with a maximum number of 15 cars with the operation hours being from daylight to dark, with the conditions that there be security lights only and no streamers, on the following described property:

The South 150 feet of the East 199.5 feet of the SE/4 of the SE/4 of the SE/4 of the SE/4 of Section 5, Township 19 North, Range 14 East, City of Tulsa, Tulsa County, Oklahoma.

Case No. 12898

Action Requested:

Variance - Section 410 - Principal Uses Permitted in Residential Districts- Use Unit 1210 - Request for a variance to permit off-street parking in an RS-3 zoned district under the provisions of Section 1670, located west of the NW corner of Quincy Avenue and 33rd Street.

Presentation:

Brookside State Bank was represented by C. H. March, 4510 East 31st St. Mr. March submitted a plat of the area (Exhibit "F-1") and informed that in a previous action the Bank was turned down for a similar request on Lot 4 of Cedar Haven Addition which is right next to the Bank. They need more parking for their employees. Lot 6 in Oliver's Addition is being used as a parking lot for forty cars. They have 68 employees, and they would like to have additional parking to get the employees off the street in the area. They would like to make a parking lot for employees only on Lot 7 of Block 1 of Oliver's Addition. The Bank is on Lot 2 and there is a

Case No. 12898 (continued)

parking lot on Lot 3. The lot they are asking for the variance on is right next to the lot where they already have a parking lot. He submitted 7 pictures (Exhibit "F-2") of the area. They will save whatever trees on the lot that they can, but most of them will have to be removed. The fencing around the proposed lot will be the same as the fencing around the existing lot. He informed that this will not increase the traffic on 33rd Street. They will have a separate entrance for the new parking lot. This lot will probably not be open to the public for parking at night. They are currently considering a proposal to allow people to use the regular customer's parking lot in the evening for some of the overflow traffic.

Protestants:

There was a list of names submitted by Joseph McCormick, of people from the area who were present to protest this case (Exhibit "F-3").

Comments:

Mr. Gardner informed that the subject lot is not within the Brookside Special Consideration Area--it abuts this area. The existing parking lot is in the area designated for off-street parking; the lots to the north of that would be in the consideration area--one of which the Board denied a variance on. The question in that case was one of whether or not there was a hardship.

Ms. Purser could not understand why the Board would even consider granting the variance on this lot when they denied one on the lot in the previous case. She informed that this one encroaches further into the single-family. The only thing that it has going for it is that it does connect to an existing lot. This one fronts a residential area, which the other one did not.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-1-0 (Chappelle, Purser, Victor, Wait, "aye"; Smith, "nay"; no "abstentions"; none, "ab-sent") to DENY a Variance (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1210) to permit off-street parking in an RS-3 zoned district under the provisions of Section 1670, on the following described property:

Lot 7, Block 1, Oliver Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12900

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an Exception to permit an existing mobile home in an RS-1 zoned district under the provisions of Section 1680.

Variance - Section 440.6 (a) - Special Exception Uses In Residential Districts, Requirements - Request for a variance of the one year time limitation to permit permanent occupancy of an existing mobile home in an RS-1 zoned district under the provisions of Section 1670, located west of the SW corner of East 11th Street South and South 173rd East Ave.

Case No. 12900 (continued)

Presentation:

Stacy Bevan, 172 East 11th Street, informed he has had his mobile home on the subject property for one year and he would like this approval extended. Most of the mobile home is skirted, and he will skirt the rest if permission is granted for 5 years.

Protestants: None.

Comments:

Mr. Victor had a problem with permanent occupancy.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit an existing mobile home in an RS-1 zoned district under the provisions of Section 1680, and a Variance (Section 440.6 (a) - Special Exception Uses in Residential Districts, Requirements) of the one year time limitation to five years for an existing mobile home in an RS-1 zoned district under the provisions of Section 1670, on the following described property:

The East 79.5 feet of Lot 5 and all of Lot 6, Block 1, Lynn Lane Estates Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12902

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1206 - Request for a variance of the front setback requirement from the centerline of East 59th Street South from 55 to 43 feet to permit an existing house and an existing porch in an RS-2 zoned district under the provisions of Section 1670, located east of the NE corner of 59th Street South and South Birmingham Avenue.

Presentation:

Eileen Fennell, 2447 East 22nd Street, was present representing the homeowner of the existing house. The purpose of this application is to clear the title. She informed the house and porch were constructed about 20 years ago. There are no additions planned for the structure. The existing porch has been enclosed since it was built. She submitted a plat of survey (Exhibit "G-1").

Protestants:

There was a letter of protest from a neighbor (Exhibit "G-2"). The Board assumed that the protestant probably thought this was for an addition to the existing structure.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - under the provisions of Use Unit 1206) of the front setback requirement from the centerline of East 59th Street South from 55 to 43 feet to permit an

Case No. 12902 (continued)

existing house and an existing porch in an RS-2 zoned district under the provisions of Section 1670, per plot plan, on the following described property:

Lot 13, Block 6, Amended Plat of Southern Hills Manor Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12904

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in the Commercial Districts - Use Unit 1217 - Request for an exception to permit a car wash in a CS zoned district under the provisions of Section 1680, located at the NW corner of 91st Street South and Yale Avenue.

Presentation:

J. BrunoIdi, P. O. Box 2420, was represented by Casper Jones, 1302 South Fulton Avenue. He informed the application should be in Texaco's name. He submitted a plot plan showing how the buildings will be placed (Exhibit "H-1"). There will be only one bay--it is not the primary use of the land. There will be a convenience store with a service station which is permitted by right. This is related to the service station--it is not a principal car wash use. He informed that there will probably be a shopping center next to the subject property.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-1 (Chappelle, Purser, Victor, Wait, "aye"; no "nays"; Smith, "abstaining"; none, "absent") to approve a Special Exception (Section 710 - Principal Uses Permitted in the Commercial Districts - under the provisions of Use Unit 1217) to permit an accessory car wash in a CS zoned district under the provisions of Section 1680, per plot plan, on the following described property:

A tract of land in the SE/4 of the SE/4 of the SE/4 of Section 16, Township 18 North, Range 13 East, Tulsa County, State of Oklahoma, being more particularly described as follows, to wit:

Commencing at the SE corner of Section 16, Township 18 North, Range 13 East, said point being the centerline intersection of South Yale Avenue and East 91st Street South; thence Due West along the South line of Section 16, a distance of 84.97'; thence Due North perpendicular to the South line of Section 16, a distance of 50.00' to the POINT OF BEGINNING; thence Due West a distance of 150.00' to a point, said point being 234.97' West and 50.00' North of the SE corner of Section 16; thence North 0°-01'-59" East parallel to the East line of Section 16, a distance of 175.00'; thence Due East parallel to the South line of Section 16, a distance of 175.00' to a point, said point being 224.97' North and 60.00' West of the SE corner of Section 16; thence South 0°-01'-59" West parallel to and 60.00' perpendicularly distant from the East line of Section 16, a distance of 150.00' to a point, said point being 74.97' North and 60.00' West of the SE corner of Section 16; thence South 45°-01'-00" West a distance of 35.37' to the

Case No. 12904 (continued)

POINT OF BEGINNING, and containing 30,312.495 square feet or 0.6959 acres.

Case No. 12905

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1213 - Request for an exception to permit Convenience Goods and Services in an IL zoned district under the provisions of Section 1680, located at the NE corner of East 61st Street South and Garnett Road.

Presentation:

J. Brunoldi, P. O. Box 2420, was represented by Casper Jones, 1302 South Fulton Avenue. Mr. Jones informed this application is for Texaco. He informed that a car wash is permitted on the subject property, but retail sales are not. He submitted a plot plan showing where the buildings will be placed (Exhibit "I-1").

Protestants: None.

Board Action:

On MOTION of PURSER and SECOND by CHAPPELLE, the Board voted 4-0-1 (Chappelle, Purser, Victor, Wait, "aye"; no "nays"; Smith, "abstaining"; none, "absent") to approve a Special Exception (Section 910 - Principal Uses Permitted in Industrial Districts - under the provisions of Use Unit 1213) to permit Convenience Goods and Services in an IL zoned district under the provisions of Section 1680, per plot plan, on the following described property:

A tract of land in the SW/4, SW/4, SW/4, of Section 32, Township 19 North, Range 14 East, Tulsa County, Oklahoma; more particularly described as follows: Beginning at the SE corner of Section 32; thence North 250'; thence East 250'; thence South 250'; thence West 250'; to the point of beginning; LESS and EXCEPT the West 50' and the South 50' thereof.

Case No. 12907

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1217 - Request for a variance of lot frontage on Sheridan Road from 150 to 77.5 feet in a CS zoned district under the provisions of Section 1670.

Special Exception - Section 710 - Principal Uses Permitted in the Commercial Districts - Request for an exception to permit a trade school in a CS zoned district under the provisions of Section 1680, located at the NW corner of 7th Street and Sheridan Road.

Presentation:

Lawrence Gregory, 708 South Sheridan Road, was present representing Climate Control Institute which is an electrical and air conditioning trade school and has been at the 708 South Sheridan address since 1977. They would like to purchase the subject property to use as parking and classroom training facilities for their school. The property has an existing parking lot and a two-bedroom residence on it. He informed they will remodel the residence which will improve the property. These

improvements will make the property more attractive than it is now. The building has about 1,000 sq. ft. He presented a picture of the residence. The school is in operation Monday through Friday with day classes from 7:30 a.m., until 2:00 p.m., and with Monday through Thursday evening classes from 6:00 p.m. until 10:00 p.m. They are open all year except for holidays. There is no noise generating equipment except for an occasional hammer or wrench noise. He informed that they would have to do some remodeling on the building, but this work will not increase the area of the building. They would make the changes that would need to be made in order for the school to meet the Building Code.

Protestants:

Jean Davis, 6331 East 7th Street, informed she lives next door to the subject property. She submitted 3 pictures of the parking situation that exists in the area (Exhibit "J-1"). She informed that the parking situation in the area is terrible and the subject property is already being used as a parking lot. There is not enough room for parking for new students. She does not see how more cars can be accommodated in the area.

Evelyn Zinkle, 4510 East 49th Street, was concerned with the parking in the area. Most of the parking problems are caused by the students at the school. She would like to have the assurance of the applicant that the other residents in the area will not be encroached upon as far as parking.

Doyle Turnbull, 6331 East 7th Street, informed that there is just a narrow driveway between the house on the subject property and his house. He is concerned that the noise from the classrooms will bother his family. There will be about 35 feet between the house on the subject property and the bedrooms in his house. He is also concerned with the traffic/parking problems and the litter problems in the area. He informed when the school was put in, the residents were assured that there would be ample parking for the students. There is a little picket fence between his property and the subject property.

Applicant's Rebuttal:

Mr. Gregory informed that they started using Ms. Zinkle's parking about 2 months ago with the permission of one of her tenants. He informed that some of the cars which are causing parking problems could belong to people other than the students. After Ms. Zinkle complained to him today, he gave the students directions not to park on her property at all. As far as the litter problems go, they have a full-time maintenance man and custodian that polices their area every day. They take care of the property to the best of their ability. He informed that the property is split. He feels that their proposal for the use of the property will help the parking and improve the area. There should not be any noise involved. He is not sure that they will use the residence at night for classes, but if they do, the classes will be over by 10:00 p.m. He would like to have the option of having classes in the house. He does not think the school would generate any more noise than is currently in the structure which is occupied by a family. He informed that the corner is a vacant lot that has been used as a car lot--they have been parking on that lot. This lot will hold approximately 12 to 15 cars. He presented a picture of the lot. He informed that their enrollment is about 120 with 80 of these being day students and 40 being night students. Even without the additional property, they are permitted by state accrediting,

the Oklahoma Board of Private Schools, and the Veterans Administration to have 125 day students and 125 night students--they can accommodate 250 students. They want to use the subject property for their present enrollment. They presently have 6,600 square feet. He informed they want to move the electrical equipment to the subject property.

Comments:

Mr. Gardner informed that the Staff would think that the Board would want to limit the proposed school to what the applicant states that he is going to do. He does not think that the concern for parking needs to be raised because there would be adequate room for several cars to not only accommodate the additional square feet, but probably would help in the parking for the existing school. The applicant has the potential of .5 and could build a building on half of the lot which would reduce the number of parking spaces, and then the Board would get into the question of parking. If the applicant is willing to live with no more than 1,100 square feet and would use the rest of the land for parking, then the Board does not need to talk about parking. Using just 1,100 square feet would leave probably 20 or 30 parking spaces which is 20 or 30 more than he has right now. For a 1,100 square-foot building, he would only need about 4 parking spaces.

Ms. Purser informed this could be limited to this structure so that the applicant would have to come back if they wanted to build a new building on the lot. The variance needs to be tied to the existing structure. She was concerned about how the motion should be worded. Ms. Purser informed that many uses could go in on the corner without the people even coming to this Board because the property is zoned commercial. One use that would be permitted by right is a bar. She feels that the students would cause much less noise than a bar would generate.

Ms. Purser informed the applicant would be required to have a hard surface parking lot. They will only have about 12 or 15 more parking spaces than they have at the present time. She informed that the school could probably have about 300 students with the additional space. She urged the Staff to take a look at the parking requirements because she feels that they are very much in error, especially for schools--there are a lot of cars associated with a school.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - under the provisions of Use Unit 1217) of lot frontage on Sheridan Road from 150 to 77.5 feet in a CS zoned district under the provisions of Section 1670, and a Special Exception (Section 710 - Principal Uses Permitted in the Commercial Districts) to permit a trade school in a CS zoned district under the provisions of Section 1680, subject to the applicant erecting a 7-foot wooden screening fence on the part of the property that abuts residential property to the west with the finished side toward the house, and subject to the variance being used within the existing structure only, no new buildings, on the following described property:

The South 77.5 feet of the East 150 feet of tract 32 of Glenhaven Addition, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1217 - Request for a variance of the setback requirement from the centerline of 10th Street from 50 to 40 feet in a CS zoned district under the provisions of Section 1670.

Variance - Section 410 - Principal Uses Permitted in Residential Districts - Request for a variance to permit erecting mini-storage buildings in an RM-1 zoned district under the provisions of Section 1670.

Special Exception - Section 710 - Principal Uses Permitted in the Commercial Districts - Request for an exception to permit erecting mini-storage buildings in a CS zoned district under the provisions of Section 1680.

Special Exception - Section 250.3 - Screening Wall or Fence - Modifications of the Screening Wall or Fence Requirements - Request for an exception to modify or remove the screening requirement where physical features provide visual separation of uses in a CS and RM-1 zoned district under the provisions of Section 1680.

Variance - Section 410 - Principal Uses Permitted in Residential Districts - Request for a variance to permit access across an RM-1 zoned district to a CS zoned district under the provisions of Section 1670, located east of the NE corner of 10th Street and Sheridan Road.

Presentation:

William John Raczkowski, 912 South 67th East Avenue, informed he owns four 50-foot lots. He submitted some plans for his intended uses (Exhibit "K-1"). He informed that the Board granted him approval to build mini-storages on these lots on July 10, 1980. He put off building them at the time because of other mini-storages in the area. He presented some pictures of the subject property. This is basically the same application as the previous one. There have been no significant changes in the conditions in the area since the time that the other application was approved.

Protestants: None.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Purser, Smith, Victor, "aye"; no "nays"; Wait, "abstaining"; none, "absent") to approve a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - under the provisions of Use Unit 1217) of the setback requirement from the centerline of 10th Street from 50 to 40 feet in a CS zoned district under the provisions of section 1670, a Variance (Section 410 - Principal Uses Permitted in Residential Districts) to permit erecting mini-storage buildings in an RM-1 zoned district under the provisions of Section 1670, a Special Exception (Section 710 - Principal Uses Permitted in the Commercial Districts) to permit erecting mini-storage buildings in a CS zoned district under the provisions of Section 1680, a Special Exception (Section 250.3 - Screening Wall or Fence - Modifications of the Screening Wall or Fence Requirements) to modify or remove the screening requirement where physical features

Case No. 12908 (continued)

provide visual separation of uses in a CS and RM-1 zoned district under the provisions of Section 1680, and a Variance (Section 410 - Principal Uses Permitted in Residential Districts) to permit access across an RM-1 zoned district to a CS zoned district under the provisions of Section 1670, per plot plan submitted, on the following described property:

Lots 16-19, Block 28, Sheridan Hills Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 12909

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request for an exception to permit a Pythian Benevolent Association in an RM-2 zoned district under the provisions of Section 1680, located at the SW corner of Troost Avenue and 8th Street.

Presentation:

David Talbot was represented by Dennis Provo, 1523 South Sheridan Road. He submitted some publications (Exhibit "L-1") and described the zoning in the area. The six lots south of the subject property are owned by the seller of the property.

Bob Whitchurch, 19 North Knoxville Avenue, informed he has been a member of the Pythian Benevolent Association for more than 25 years. He informed they do not solicit for members, so they are not very well known. They are a charity association. He described some of their benevolent works. The organization would like to build a new lodge building on the subject property. The 120' x 60' building will be constructed of metal, and Mr. Whitchurch believes they can build one nice enough to help improve the community. They do not feel that they will hurt the community in any way. He informed that the Indian Youth Council is located just north of the subject property. There are businesses beyond that. They have about 30 people at each meeting. They intend to pave the lot for parking and will have enough parking spaces for 17 or 18 cars. The organization's meetings are on the second and fourth Thursdays of each month. As far as the design of the building, they have two or three different metal building companies in mind to work with. They are waiting for the approval of this use before they have any plans drawn up. They have a lot of social functions. They want to be able to pay cash for their building--they do not want to have any debts. They are not planning to put windows in the building because they do a lot of ritualistic work and they do not want to have to cover the windows. They will air-condition the building. They do not intend to rock the building now, but they may at a later date. Mr. Whitchurch does not want the organization to make any commitments that they will not financially be able to meet.

Charles Niesbaum is the president of this order of the Pythians. He presented some plans that they will probably be using. They are not sure that the building will be metal--it may have concrete walls. He described what the building will be like. They will have to remove two trees from the lot. He described the area.

Case No. 12909 (continued)

Interested Parties:

Dave Talbot, 1729 South Cincinnati Avenue, informed that he owns a house about 1½ blocks west of this site. He informed that the neighborhood has been slowly and steadily improving for the past three or four years, and he feels that this project would be a long-term positive influence.

Richard Hatch, 115 North Knoxville Avenue, informed that this is the oldest fraternal order in the United States that has received its charter by Congress. He informed that he believes the order would be an asset to this neighborhood. Most of the activities of the organization are in the evening, so they will not create traffic hazards or be a detriment to the children in the area. They are law-abiding citizens and respect families. They stand for peace by understanding.

Carl Schlosser, 2834 East 21st Place, feels that the lodge could improve the area. He had a question as to the exact location of the subject property.

Comments:

Mr. Victor informed that he has no problem with the use of the property for the requested purpose. He does have some reservations about putting a metal building that might look industrial in nature on the property. Metal buildings can be designed so that they are attractive and do not look like metal buildings. He asked the applicant if he would be willing to come back to the Board and let the Board review the design of the building, and the applicant indicated he would have no problem with that.

Ms. Purser was concerned with the proposed construction and the appearance of the building.

Mr. Victor thinks that approval could be on the condition that the applicant come back with the plans for the building.

Mr. Victor informed that the Board's concern was that this not look like a manufacturing plant in the middle of a residential area.

Mr. Gardner suggested that this be continued for a couple of weeks so that the applicant can get pictures of some existing buildings to submit to the Board as representative of what they intend to build. This way, the Board would have some idea of what they would like to do without the applicants spending a lot of money to get plans drawn up.

Board Action:

On MOTION of PURSER and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to continue Case No. 12909 to the December 15, 1983, meeting.

Action Requested:

Appeal from Building Inspector - Section 1650.1 - Request for an appeal of the Building Inspector's decision regarding conformity of an existing business (architectural firm) in an RM-1 zoned district, located at the NE corner of North 24th West Avenue and West Pine St.

Presentation:

Robert Bartlett, 2324 West Tecumseh Avenue, informed that this property is located in Osage County, but the City of Tulsa has had zoning jurisdiction out there shortly after its initial enabling legislation in 1953. He informed that the current use of the property is that of an office building, but this is a use that does not conform to the zoning. The property has never been zoned for office space. Approximately four years ago the Planning Commission and the City of Tulsa denied a zoning application for light office use on this specific site. There has been no use exception granted, nor has there been a Zoning Clearance Permit issued. He is requesting that the Board require that the use exception provisions of the Zoning Code be applied and that the owner be required to follow the procedures. He has no objection to the firm being at the location, but he wants it to be legal. Mr. Bartlett is one of the early residents of Gilcrease Hills, and he moved out there because it was a community committed to a plan. He would like to see the plan adhered to, and he does not think it has been in this case because he feels the Building Inspector has made an error. The firm moved into what was once an information center for Gilcrease Hills. He does not object to the architectural firm being on the subject property, but he does not want this to set a precedent for the area of allowing anyone to come in without special permission.

Protestant:

Leon Ragsdale, 1615 North 24th West Avenue, is the occupant of the subject property. He explained the process they went through in order to occupy the building on the property. The subject property has been purchased by some people for the purpose of trade to Mr. Ragsdale for another tract of ground. The property was annexed into the City of Tulsa in 1978, but the building was built in 1971. The building has been used consistently for office purposes since that time. He submitted a letter from the Gilcrease Hills Development Company which states the purposes of the building were for office use (Exhibit "M-1"). The conversations which Mr. Ragsdale had with many parties with the City seemed to indicate to him that if they were annexed into the City after the period in which it was used in this fashion, they would be permitted to use the property as they are continuing to use it. He informed that at the time of the annexation into the City, it is his understanding that there was no part of Osage County a part of the City Limits in 1971 when the building was occupied by the same purpose as it is presently being used for. He submitted 5 photographs of the subject property (Exhibit "M-2"). He informed the building on the subject property is about a 7,000 square-foot building. He feels that this does meet the provisions of the Code stating that there is no part of an incorporated area in the City of Tulsa. The architectural firm does not plan to sublet any of the spaces in the building. There are 61 parking spaces in front of the building.

Interested Parties:

Steve Clark, Utica Tower Building, represented the Gilcrease Hills Homeowner Association. He informed that the Board of Directors of the

Case No. 12910 (continued)

Homeowner Association is willing to examine the type of office use that is requested by the architectural firm. They have problems with some uses. There are approximately four acres of land on the subject property which would lend itself to storage and other objectionable uses. He feels that if permission is granted to use the property for offices, the restrictions need to be stringent because of the fact that it is in a residential area. Mr. Clark feels that it is in the best interest of the homeowners in the area to permit what is on the property to stay--the alternatives might not be as good as what is there. Mr. Clark informed that he is not saying that the Homeowner Association is prepared to agree to or accept a special exception. They may object very strongly.

Casper Jones, 1302 South Fulton Avenue, informed he took the original application for the CDP of Gilcrease Hills. He informed that the City did have zoning jurisdiction there since May of 1953. The property was zoned single-family residential when it first went in.

Applicant's Rebuttal:

Mr. Bartlett informed that in an RM-1 area an office use exception is limited to one-story in height. One of the buildings on the subject property is three stories in height.

Comments:

Mr. Jackere does not believe that the Board has jurisdiction today to grant relief through a special exception--this is just an appeal.

Mr. Jackere does not think that the protestant's statements deal with whether or not this a nonconforming use. He informed that back as far as in the 1950s the City of Tulsa exercised zoning jurisdiction beyond its corporate limits--five miles beyond. This was not changed until about 1980. Mr. Jackere does not believe that this is a legal nonconforming use.

Mr. Gardner informed that he thinks that the long-range use for the building when it was first built was as an association clubhouse--a recreational-type facility. The Association went ahead and built a clubhouse at a different location because of the time element involved. The design of the building was intended to be used for something other than residential from the beginning, but was not permitted to be used for offices after the construction phase.

Mr. Gardner suggested to Mr. Ragsdale that he file for a special exception for a Use Unit 11 and then get together with the Homeowner Association to see which uses they would think would be appropriate.

Mr. Victor asked if the original use of the building was illegal, and Mr. Jackere informed him that based on the evidence he has heard, he feels that it was.

There was further discussion about why this was illegal when it was built.

Mr. Jackere informed that the zoning on the property preceded the use. He informed that the Courts disfavor nonconforming uses, and this Board should likewise disfavor them and demand strict proof that a property is in fact a legal nonconforming use.

Case No. 12910 (continued)

Ms. Purser asked Mr. Ragsdale if he could bring proof to this Board that there was office use in the building before 1970. Mr. Ragsdale informed that there wasn't. They did not complete the plans until September of 1970, and it was 1971 before it was occupied.

Mr. Victor informed there was no building permit or zoning clearance ever issued, so it was built illegally.

Mr. Jackere informed the builder would have needed a zoning clearance permit before he could build legally.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-1 (Purser, Smith, Victor, Wait, "aye"; no "nays"; Chappelle, "abstaining"; none, "absent") to Reverse the Building Inspector's decision regarding conformity of an existing business (architectural firm) in an RM-1 zoned district, on the following described property:

A tract of land situated in the NW/4 of the SW/4 of Section 27, Township 20 North, Range 12 East of the Indian Base and Meridian, Osage County, Oklahoma, said tract being more particularly described by metes and bounds as follows, to wit:

Commencing at the SW corner of said NW/4 of the SW/4; thence South $89^{\circ}04'34''$ East along the South line thereof a distance of 737.43 feet; thence North $0^{\circ}30'32''$ East a distance of 80.00 feet to the point of beginning; thence continuing North $0^{\circ}30'32''$ East a distance of 78.40 feet to a point of curvature to the left, said curve having a radius of 390 feet a central angle of $33^{\circ}54'02''$; thence along said curve, a distance of 230.75 feet; thence North $33^{\circ}23'30''$ West a distance of 157.28 feet; thence North $67^{\circ}31'33''$ East a distance of 90.00 feet; thence North $21^{\circ}15'49''$ East a distance of 109.32 feet; thence North $55^{\circ}37'21''$ East a distance of 174.75 feet; thence South $86^{\circ}42'01''$ East a distance of 59.42 feet; thence South $56^{\circ}12'01''$ East a distance of 134.00 feet; thence South $3^{\circ}12'01''$ East a distance of 150 feet; thence South $19^{\circ}37'04''$ West a distance of 464.25 feet; thence North $89^{\circ}04'34''$ West a distance of 140.00 feet to the point of beginning and containing 4.11 acres, more or less.

Case No. 12911

Action Requested:

Special Exception - Section 440.2 - Special Exception Uses in Residential Districts, Requirements - Home Occupations - Use Unit 1206 - Request for an exception to permit a home occupation (appliance sales) in an RS-3 zoned district under the provisions of Section 1680, located at the NE corner of East 11th Street South and South 137th East Avenue.

Presentation:

B. L. Brandon, 917 South 127th East Avenue, informed he owns the subject property. They would sell refrigerators and ranges. They have a few floor models in the garage where they sell the appliances from. He informed that on the west side of them is a large cement plant which is zoned industrial. To the east of them will be a church building. He is currently selling the appliances, and when they have appliances to sell, they do advertise. This is done on a part-time bases. They do

Case No. 12911 (continued)

not have any outside employees. They sell used appliances and have 1 to 4 customers a day when they do advertise. They advertise in the paper, but they do not have any signs on the property. They do not do repair or install the appliances.

Protestants: None.

Comments:

The Board wondered if this could not be done at Mr. Brandon's auction business, and he informed him that it could not be done there.

Ms. Purser feels this application borders on retail sales, and that this is not anything that the Board has ever permitted as a home occupation.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to DENY a Special Exception (Section 440.2 - Special Exception Uses in Residential Districts, Requirements - Home Occupations - under the provisions of Use Unit 1206) to permit a home occupation (appliance sales) in an RS-3 zoning district under the provisions of Section 1680, on the following described property:

Lot 12, Block 2, Golden Acres Addition to the City of Tulsa,
Tulsa County, Oklahoma.

Case No. 12914

Action Requested:

Variance - Section 1221.5 (a) - Business Signs and Outdoor Advertising - CS District Use Conditions - Request for a variance of the setback requirement from the centerline of East 51st Street South from 70 feet to 50 feet to permit erecting a 50-foot sign in a CS zoned district under the provisions of Section 1670.

Variance - Section 1221.5 (d) (5) - Business Signs and Outdoor Advertising - CS District Use Conditions - Request for a variance to permit an additional advertising sign in a CS zoned district under the provisions of Section 1670, located east of the SE corner of East 51st Street South and South Harvard Avenue.

Presentation:

Will Sanditen of Sanditen Investments, 3314 East 51st Street, Suite A, was represented by Casper Jones, 1302 South Fulton Avenue. Mr. Jones informed the applicant has one sign on the subject property, but they have 1,565 feet along 51st Street, and they are proposing to put another sign on the property. The reason for this is that the properties to the east of it is a part of the shopping center, but the architecture is different. The sign on the west advertises the Fox Theatre. He presented a picture of what the sign will show (Exhibit "N-1"). He informed that there will be approximately 600 to 800 feet between the two signs. They have the footage to permit the signage, but the Ordinance says that only one sign may be erected to identify the shopping center. If they split the property, they could probably add the

Case No. 12914 (continued)

second sign without coming to this Board. Mr. Jones requested that this case be continued to the next regular meeting. He submitted a site plan (Exhibit "N-2").

Protestants:

Rita Icenogle, 5140 South Marion Avenue, was present to protest this case.

Comments:

Ms. Purser informed she has a problem with granting a variance of the setback. She thinks it could cause a safety problem as far as visibility is concerned.

Mr. Gardner informed that the special exception should be a variance.

Ms. Purser is not certain that she would be opposed to the applicant having another sign, but the proposed sign does not fit the variance of the setback in her opinion. She is also opposed to the amount of square-footage on the proposed sign.

Board Action:

On MOTION of WAIT and SECOND by CHAPPELLE, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to DENY a Variance (Section 1221.5 (a) - Business Signs and Outdoor Advertising - CS District Use Conditions) of the setback requirement from the centerline of East 51st Street South from 70 feet to 50 feet to permit erecting a 50-foot sign in a CS zoned district under the provisions of Section 1670, and a Variance (Section 1221.5 (d) (5) - Business Signs and Outdoor Advertising - CS District Use Conditions) to permit an additional advertising sign in a CS zoned district under the provisions of Section 1670, on the following described property:

Part of Lot 1, Block 1, Southern Hills Mall Addition Amended to the City of Tulsa, Oklahoma, being described as follows:

Beginning at a point on the Northeast corner of Lot 1, Block 1; thence West 200' to a point of beginning; thence South 50'; thence West 150'; thence North 50'; thence East 150' to the point of beginning.

Case No. 12915

Action Requested:

Appeal from Building Inspector - Section 1650.1 - Request for an appeal of the Building Inspector's decision regarding the nonconformity of an existing multifamily residence in an RS-3 zoned district under the provisions of Section 1650, located north of the NW corner of Newport Avenue and East 15th Street South.

Presentation:

Aloah Kincaid, 1346 East 26th Street, explained the history of the subject property. She informed when she first looked at the property it was a five-plex. She was informed that the configuration of the units were typical of those built in the 1940s. She informed that there is a parking lot at the back of the house. She does not feel that the five-plex is inconsistent with the character of the neighborhood. She presented a map of the area and described the uses in the area. There are several businesses and multifamily units

Case No. 12915 (continued)

in the area. She informed that the neighbors did not like the idea of having a parking lot on the property even though it took the parking off the street. Since 1949 the building has had apartments. She informed that the subject property is three feet from state owned property and overlooks the Inner Dispersal Loop. This building cannot be converted very satisfactorily back to a single-family unit because of its location. The property would have to be sold at a depressed price. She feels that going beyond 1949 to prove its use would be an unreasonable burden of proof. She submitted notices of some of the people in the area indicating that they have no objection to what is going on, on the subject property (Exhibit "0-1").

Larry Pinkerton, the attorney for the applicant, informed that this has been functioning as an apartment building for several years. There was discussion about the dates which would apply to discerning whether or not this is a legal nonconforming use. Mr. Pinkerton thought the date to use in proving this was July 1, 1970, when the Zoning Code was compiled.

Protestants:

There was a list of names of the protestants who were present submitted (Exhibit "0-2").

Comments:

Mr. Jackere informed it was his understanding that one of the dwelling units was very recently constructed. The applicant does not think so, but she has only owned the property since the summer.

Mr. Jackere informed that the date they needed to deal with as far as nonconformity is 1929 or 1931.

Mr. Jackere informed that the applicant's statements and the attorney's statements are arguments for the compatibility of the use in the neighborhood, but not for proving a nonconforming use.

Mr. Jackere informed that the burden of proof is on the owner or the applicant who wishes to have a nonconforming use established to show that the use has been continuous since the restriction was imposed. He informed that although the present form of the Zoning Code was first compiled in 1970, the zoning restrictions on the property predate that, and those are the critical dates to look at.

Mr. Smith informed that people have been able to prove nonconformity by going back in previous cases.

Ms. Hubbard informed Legal Inspections have a number of complaints dating back to 1980 on this particular structure, and on all occasions the owner insisted it was a single-family dwelling.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 5-0-0 (Chappelle, Purser, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; none, "absent") to uphold the Building Inspector's decision and DENY the appeal regarding the nonconformity of an existing multifamily residence in an RS-3 zoned district under the provisions of Section 1650, on the following described property:

Case No. 12915 (continued)

Parts of Lots 1 and 2, Block 14, Broadmoor Addition to the City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS:

Case No. 11761

Action Requested:

Request approval of revised plot plan.

Presentation:

Ronald Bebee, 8937 South 45th West Avenue, represented the Fellowship Bible Church. He submitted a revised site plan (Exhibit "P-1"). The building was built two years ago and they were granted an exception for Church use in a residential area. They have a slight modification in the phasing of the site plan. They want to build the third phase before the second phase. They are also planning to extend the parking to the south side of the building. There is 25 feet between his property and the parking spaces.

Protestants: None.

Board Action:

On MOTION of CHAPPELLE and SECOND by WAIT, the Board voted 4-0-1 (Chappelle, Purser, Smith, Wait, "aye"; no "nays"; Victor "abstaining"; none, "absent") to accept the substitute site plan, on the following described property:

A part of the NE/4 of the NW/4 of Section 22, Township 18 North, Range 13 East of the Indian Base and Meridian, Tulsa County, Oklahoma, being more particularly described as follows:

Beginning at a point which is 425.0' West of the NE corner of the NW/4 of Section 22; thence South a distance of 810'; thence West a distance of 396.33'; thence North a distance of 810'; thence East a distance of 396.33' to the point of beginning, containing 7.37 acres, more or less.

There being no further business, the Chair adjourned the meeting at 4:31 p.m.

Date Approved _____

1/26/84

Chairman