

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 408
Thursday, March 8, 1984, 1:00 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Chappelle Smith, Chairman Victor Wait (out at 4:25)	Purser	Compton Jones Wiles	Hubbard, Protective Inspections Jackere, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, Tuesday, March 6, 1984, at 11:38 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Mr. Smith called the meeting to order at 1:05 p.m.

MINUTES:

On MOTION of CHAPPELLE and SECOND by WAIT, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve the Minutes of February 9, 1984 (No. 406).

UNFINISHED BUSINESS:

Case No. 13011

Action Requested:

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1207 - Request for a variance of the required lot width from 75' to 20.8' and 23.45' and a variance of the required lot area from 9,000 sq. ft. to 6,822 sq. ft. and 7,704 sq. ft. to permit a lot split in an RS-3 District under the provisions of Section 1670, located north of the NW corner of East 61st Street and South Marion Avenue.

Presentation:

The applicant, Thomas L. Ozment, Suite 823, Warren Professional Building, requested that this case be continued to the March 22, 1984, meeting.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to continue Case No. 13011 to the March 22, 1984, meeting.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request for an exception to allow a church and related activities in an RS-3 District.

Variance - Section 1205.3 (a) (1) - Use Conditions - Request for a variance of the required 1-acre lot area to .56 acre.

Variance - Section 1205.4 - Off-Street Parking and Loading Requirements - Request for a variance of the required 200 parking spaces to 100, located south of the SE corner of 54th Street North and Norfolk Avenue.

Presentation:

Wilbert E. Collins, 1345 East Apache Street, informed they would like to modify their request in that the structure they previously proposed which was 8,000 square feet has been reduced to 3,569 square feet. They no longer need to seek a variance of 100 parking spaces--they only need a variance of 16 parking spaces. He presented a drawing and explained it.

Protestants: None.

Comments:

Mr. Smith asked the applicant what the side yard setback is, and Mr. Collins informed it is supposed to be 10 feet. Mr. Victor informed the plans show the setback as being about 5 feet.

Ms. Hubbard informed that at the last meeting the Board was concerned about whether or not the applicant was going to meet the required side yard setbacks from the abutting "R" Districts and whether or not he was going to have required parking in the front yard. She informed that it appears he has both on his plot plan.

There was discussion about what the required setback is and about requirements for parking in the front yard. Ms. Hubbard informed he is required a 25-foot setback from the front property line.

There was a question as to whether or not the applicant has proper access onto the property. The applicant was informed by the Board that the Board cannot grant relief on the setbacks because that has not been properly advertised. This would need to be continued to advertise for a variance of the setbacks.

Mr. Victor informed the applicant will either need to revise his plans to be in compliance with the setbacks and the front yard parking requirements or readvertise for variances of those two items.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to continue Case No. 13013 to the April 5, 1984, meeting to allow the applicant time to either revise the site plan or advertise for the proper variances.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Request for an exception to allow a mobile home in an RS-3 District.

Variance - Section 440 - Special Exception Uses In Residential Districts, Requirements - Request for a variance of the 1-year time limitation to 10 years, located at 2331 North Atlanta Place.

Presentation:

Mary E. Norris, 165 North Garnett Road, #158, informed the mobile home will be adjacent to her mother's home. Her mother is in very poor health, and she wants to be able to take care of her until she is no longer able to get around for herself. She submitted a petition signed by 27 people in the immediate area who do not object to this application (Exhibit "A-1"). She submitted 3 pictures showing two mobile homes which are representative of what she would like on the lot and showing the skirting that will be on the mobile home (Exhibit "A-2"). Both mobile homes she has looked at are single-wide. The subject tract is 55 feet in width. She informed the mobile homes are not the metal type of mobile homes. They have a shingle roof. She informed that the signers of the petition live on the same block as the subject property--some are the abutting property owners.

Protestants:

Virginia Reed, 2229 North Atlanta Court, informed that she and her neighbors object to a mobile home being moved into the area. There is a building contractor who is building new homes in the area a block and a half away from the subject tract who opposes this application because he thinks it will ruin the sale of his new homes. They do not want mobile homes in the area. She informed they have protested against several mobile homes that people have wanted to move into the area. Only one has been approved in the area, and the people were not aware that it was going to be moved in. She had a question as to how the applicant is going to take care of her mother if she has to work all day. Mrs. Reed informed that she has to take care of her mother, but she moved her into her house so she could be with her.

Applicant's Rebuttal:

Ms. Norris described how she will be able to work and still care for her mother. Her mother is 75 years old and is diabetic and blind.

Comments and questions:

Mr. Smith asked if the applicant is planning to put the mobile home on a permanent foundation and if she is planning to skirt it with rock. She informed she is.

Mr. Victor asked Mrs. Reed if there is someone living in a travel trailer on the back of the lot on the northeast corner of Atlanta Place and Xyler Avenue. She informed that there is someone living there. She informed that she has not turned in a complaint on that matter.

Ms. Hubbard informed the Board of Adjustment approved a mobile home on Lot 120 of Block 11 in Tulsa Heights Addition. The applicant in that case is currently getting ready to make application for a hearing again--it was previously approved for only one year.

Case No. 13016 (continued)

Board Action:

On MOTION of CHAPPELLE and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts) to allow a mobile home in an RS-3 District, and a Variance (Section 440 - Special Exception Uses In Residential Districts, Requirements) of the one year time limitation to 5 years, on the following described property:

Lot 41, Block 5, Tulsa Heights Addition to the City of Tulsa, Okla.

NEW APPLICATIONS:

Case No. 13018

Action Requested:

Special Exception - Section 440 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1202 - Request for an exception to permit a home occupation (sewing shop) in an RS-3 District under the provisions of Section 1680, located at the NW corner of East 7th Street and South Louisville Avenue.

Presentation:

Loretta Sharp, 3621 East 7th Street, informed she likes to make draperies and things of that nature. She would like to do this work at home. She would have people coming to her home to bring her the material for the draperies. If the people wanted her to come to their home to measure for the draperies, she would. She does not intend to stock drapery material. She has been given a list of the home occupation rules. She will depend on word-of-mouth advertising. She informed she has a large driveway which will accommodate several cars. She does own her house.

Protestants: None.

Comments and Questions:

Mr. Victor asked the applicant what her hours of operation would be, and Mrs. Sharp informed she would work whatever hours would be convenient for her. People would probably be coming to her house to bring their material between 8:00 a.m. until 6:00 p.m. The days of operation would probably be Monday through Saturday.

Mr. Smith described the restrictions for a home occupation.

Mr. Jones informed that in the file is a petition of approval signed by some of Mrs. Sharp's neighbors (Exhibit "B-1").

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Special Exception (Section 440 - Special Exception Uses in Residential Districts, Requirements - under the provisions of Use Unit 1202) to permit a sewing shop in an RS-3 District under the provisions of Section 1680, to operate between the hours of 8:00 a.m. to 6:00 p.m., from Monday through Saturday, in compliance with all the Home Occupation Guidelines, with the approval being for this applicant as long as she lives at the subject property, on the following described property:

Lot 11, Block 3, of the Amended Plat of Lots 9, 10, 11, and 12, Block 3, Lots 7, 8, 9, 10, 11 and 12, Block 4, Lots 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30, Block 5 Braden Heights Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

Case No. 13019

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1211 - Request for a variance of the setback from the centerline of South Peoria Avenue from 100' to 75' to permit construction of a building in a CS District under the provisions of Section 1670, located at the NW corner of 58th Street and South Peoria Avenue.

Presentation:

David Harper was represented by Finis Smith, 2427 West Boulevard. They are locating a branch bank at the subject property. He submitted a drawing (Exhibit "C-1") indicating the location of the intended permanent facility. They are proposing to locate a temporary facility. That will be within 75 feet of the street line of Peoria. The required setback is 100 feet. In order for them to build a temporary facility and open the facility as a branch bank at that location and still at the same time provide for the location of the permanent facility, they are asking for this variance for the period of time necessary to construct the permanent facility. He informed that all the buildings and houses on both sides of the street are on a 75-foot setback. The temporary facility will be in line with them. He would like this granted for the balance of 1984. The permanent facility will be set back 100 feet.

Protestants: None.

Board Action:

On MOTION of CHAPPELLE and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - under the provisions of Use Unit 1211) of the temporary setback from the centerline of South Peoria Avenue from 100' to 75' to permit construction of a building in a CS District under the provisions of Section 1670, per plot plan, until January 1, 1985, on the following described property:

Block 2, LESS the North 140', Riverside South Complex Addition, an Addition to the City of Tulsa, Tulsa County, State of Okla.

Case No. 13020

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 required setback from the centerline of North Cincinnati Place from 50' to 25' to permit a carport in an RS-3 District under the provisions of Section 1670, located north of the NW corner of 47th Street and North Cincinnati Place.

Presentation:

Orell Riley, 4715 North Cincinnati Place, informed he would like to build a carport in the front yard of his home. He submitted a list of his neighbors who do not object to this request (Exhibit "D-1"). His residence did originally have a garage. He informed the construction sign in his front yard is for the company that is proposing to build the carport. The carport will be peaked and will blend in with

Case No. 13020 (continued)

the house and the community. It will have shingles. The carport will be of all wood construction. It will not be enclosed on the sides. He submitted an aerial photograph (Exhibit "D-2") and a plat of survey (Exhibit "D-3").

Protestants: None.

Comments:

Mr. Victor informed there is a carport next door, but it lines up with the house. He cannot support this application because he does not think the Board has heard a hardship as to any unusual nature of the lot.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to DENY 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 required setback from the centerline of North Cincinnati Place from 50' to 25' to permit a carport in an RS-3 District under the provisions of Section 1670, on the following described property:

Lot 8, Block 9, Fairhill Second Addition to the City of Tulsa,
Tulsa County, State of Oklahoma.

Case No. 13021

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS-3 District under the provisions of Section 1680.

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1209 - Request for a variance of the time limitation from 1-year to indefinitely (foundation for mobile home) in an RS-3 District under the provisions of Section 1670, located south of the SW corner of Woodrow Place and Canton Place.

Presentation:

Paul Hastings, 2210 North Canton Avenue, was represented by his daughter, Brenda Mitchell, Route 8, Box 502, Osage, Okla. She informed that Mr. Hastings' house burned down on December 31, 1983. They purchased a mobile home and would like to place it on the subject tract. There are five mobile homes within two blocks on the applicant's street. The neighbors do not mind the mobile home being put on the property. They would like to put a foundation under the mobile home. One of the mobile homes in the area is right across the street from the subject property and another one is next door to the south. The mobile home will be the largest that is made in a single-wide--70 feet long. Mr. Hastings is wanting to rock the foundation up to the mobile home with sandstone. For right now, this will be the only dwelling unit on the property. There is enough room to rebuild later if they want to. All the utilities are ready to be turned on--they are just waiting for this permission. The property is on City sewer.

Case No. 13021 (continued)

Protestants: None.

Comments:

Mr. Victor informed the Board very seldom grants permanent use on the first application.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS-3 District under the provisions of Section 1680, and a Variance (Section 440.6 - Special Exception Uses in Residential Districts, Requirements - under the provisions of Use Unit 1209) of the time limitation from 1-year to 5 years in an RS-3 District under the provisions of Section 1670, on the following described property:

The E/2 of Lot 10, Block 1, S. R. Lewis Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13022

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in the Commercial Districts - Use Unit 1206 - Request for an exception to permit a residence in a CG District under the provisions of Section 1680, located south of the SE corner of 33rd Street North and Wilshire Drive.

Presentation:

BoLa OBadun, 1425 East Queen Street, informed he bought a piece of property that had a house on it that burned down. He wants to build a new building on it. He applied for a building permit and found that the property was zoned Commercial.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Special Exception (Section 710 - Principal Uses Permitted in the Commercial Districts - Under the provisions of Use Unit 1206) to permit a residence in a CG District under the provisions of Section 1680, on the following described property:

Lot 2, Block 6, Wilshire Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1219 - Request for an exception to permit a billiard parlor in an IL District under the provisions of Section 1680, located at the SW corner of South 87th East Avenue and East 41st Street.

Presentation:

Joseph A. McCormick, 1776 Bank of Oklahoma Tower, informed they would like to put a billiard parlor in an existing shopping center. They are making extensive renovations in the building, and the parlor will be a first-class operation. The shopping center is right next to a creek and has been flooded in the past. They think they can make the property useful using it for this use. Everything around the subject property is commercial. He does not think that anyone would be bothered by this operation in the proposed location. The operation will be in the east part of the building nearest to the creek. Other than billiards, they would have some machines and would be serving food and beverages. The beverages would include beer and would be served consistent with the law. The hours of operation would be from about noon until midnight. There is nothing directly to the west of where the billiard parlor would be located in the shopping center. There is a computer store on down the shopping center.

Protestants:

Judy Halpern, 4153 South 87th East Avenue, informed the area is light industrial. There are no businesses in the area that are open after five o'clock. She is concerned because in the last year they have had an increase of burglaries and vandalism in the area. She is concerned about the type of people this facility could draw after the closing hours of the other businesses. She is concerned about the value of the property and the nature of the area. She informed that they have had things stolen from their business as have other businesses.

Marlin Brown, 1211 East Admiral, informed his business is across the street to the east of the subject property. He located his business in the area because it was a good, clean industrial area. He is concerned about the security problems that this type of business could cause. He would like the area to stay as it is now.

David Rich, 2140 South Harvard Avenue, informed he owns the property to the east side of the subject property on the east side of 87th East Avenue. They have an elaborate development on their property and they have been very selective in the type of tenants they would allow on the premises because they wanted to maintain the character and the nature of the neighborhood. They were the developers of the subdivision. He read from two letters sent to him by other protestants of this application. Mr. Rich and the letter writers are very concerned about the security problems this could cause in the area. He is concerned that the people the business will attract will not be considered the most desirable and could cause a lot of problems in the area.

Applicant's Rebuttal:

Mr. McCormick informed that the Zoning Code does provide for billiard parlors in the City of Tulsa if a special exception is granted. He

Case No. 13023 (continued)

informed they must get a special exception to put the billiard parlor anywhere that they might put it. The arguments that the Board has heard from the protestants are arguments that would lend themselves to tell the Board not to allow one any place. Billiards in and of themselves do not draw undesirable people. Mr. McCormick informed that his client maintains security guards at the other places which he operates, and he will maintain them at this location. He will take care of any problems that arise. He described how the business will be set up on the inside. The protestants have their place of business some distance away from the subject property. Most of them are across the creek. This is a very commercial/industrial type area and it is a good location for this type of business. He informed if the business draws bad people, that can be taken care of. There are methods for shutting down businesses that are a public nuisance.

Comments:

Mr. Jackere informed that the applicant implied that billiard parlors are not permitted in the City of Tulsa except with this Board's approval. That is not the case. Billiard parlors are a Use Unit 19 and are permitted by right in all of the commercial zoning districts including the corridor district. They do not need any approval with the exception of the corridor district where there is a site plan review. The reason for this Board's consideration and the special exception in the industrial districts is because frequently you can have commercial uses which are open during the same hours of operation as the industrial uses which serve the industrial uses, such as a restaurant. Then there are those commercial uses that stay open at night, such as this one, that may not be compatible with the industrial area that shuts down at 5:00 o'clock.

Mr. McCormick informed the area is a highly commercial district although it is zoned industrial.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-1-0 (Chappelle, Victor, Wait, "aye"; Smith, "nay"; no "abstentions"; Purser, "absent") to DENY a Special Exception (Section 910 - Principal Uses Permitted in Industrial Districts - under the provisions of Use Unit 1219) to permit a billiard parlor in an IL District under the provisions of Section 1580, on the following described property:

A tract of land containing 1.984 acres, more or less, located in the W/2, NE/4, NW/4 of Section 25, Township 19 North, Range 13 East, being more particularly described as follows, to wit: Beginning at the NW corner of Said W/2, NE/4, NW/4; thence due East and along the North line of Said W/2, NE/4, NW/4 a distance of 333.85 feet; thence due South at a right angle a distance of 66.96 feet to the point of beginning; thence due South a distance of 279.67 feet; thence due East a distance of 326.15' to a point on the East line of Said W/2, NE/4, NW/4; thence due North and along the East line to its intersection with the Southerly Right-of-Way line of the Broken Arrow Expressway; thence Northwesterly along Said Right-of-Way line a distance of 16.55 feet to a point of curve to the left with a radius of 2,811.79 feet; Said point being 95.87 feet South and 16.23 feet West of the Northeast corner of Said W/2, NE/4, NW/4; thence Northwesterly along Said curve a distance of 317.11 feet to the point of beginning.

3.8.84:408(10)

Action Requested:

Special Exception - Section 420.1 - Accessory Uses In Residential Districts - Accessory Uses Permitted - Use Unit 1206 - Request for an exception for a home occupation (tire repair) in an RS-3 District under the provisions of Section 1680, located north of the NE corner of 46th Street North and North Hartford Avenue.

Presentation:

Elder C. Gibbs, 4623 North Hartford Avenue, would like to repair tires in his garage. He would only be repairing flat automobile tires. He would be plugging holes and remounting and would do balancing. There would be few sales, but not many. He hauls the bad tires that he cannot fix to the dump. All the work is done inside, but he does store the bad tires on the back of his lot until he has a whole load to haul off. He takes about 25 or 30 to the dump at one time. He does have a 2 1/2 square-foot sign, but he does not have it out at this time. He has a regular tire changing machine and a compressor. He informed that several of his neighbors bring their tires in for repair. He presented a signed note from his neighbors stating that they do not object to this application. His customers drop off their tires and then come back to get them. He has one or two customers a day and fixes between 10 and 20 tires a week. He does not sell any food from his residence, and he has no other type of business on the property. He informed there are houses to the north and south of him, but there are none across the street--it is a church parking lot. All he does is patch tires with holes in them. He took his sign down because a City Inspector came by and told him that his sign was put in the wrong place. He does plan on putting the sign back up in a different location. He does not have any employees.

Protestants: None.

Comments and Questions:

Mr. Smith asked the applicant if he was furnished with a list of the rules for a home occupation, and Mr. Gibbs informed that he was furnished with that list. Mr. Smith informed him that he is not supposed to have a sign and Mr. Gibbs said he would comply by the rules that the Board of Adjustment set up.

Ms. Hubbard informed there was a complaint on this business. The complaint was that there was a business being conducted from the property with a sign accompanying the business.

Mr. Jackere informed the complaint stated that not only was there selling of new and used tires, but also appliances and food.

Ms. Hubbard informed the inspector did not mention anything about sales of appliances or food when he was out there. The inspector indicated to Ms. Hubbard in their conversation that there were tires stored outside.

Mr. Compton informed as far as land use, the Staff can see that there are those uses they would consider appropriate sorts of uses as home occupations, but he does not think the Staff would be supportive of this type of commercial venture within a residential neighborhood.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to DENY a Special Exception (Section 420.1 - Accessory Uses in Residential Districts -- Accessory Uses Permitted - under the provisions of Use Unit 1206) for a home occupation (tire repair) in an RS-3 District under the provisions of Section 1680, on the following described property:

Lot 25, Block 4, Fairhill Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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 set-back from the centerline of East 25th Street from 55' to 34.33' to permit an addition to an existing dwelling in an RS-2 District under the provisions of Section 1670, located at the NE corner of East 25th Street and South Evanston Avenue.

Presentation:

Margie P. Brown, 2347 South Evanston Avenue, informed they would like to add a family room onto their house. She submitted 4 pictures of the property (Exhibit "E-2") and some drawings showing what the addition will look like. The addition will improve the property. She submitted a plot plan and construction plans (Exhibit "E-2"). She informed an architect told them the south side of the house was the most feasible place to add on a family room. She described the surrounding area and told about other houses in the area that are closer to the street than theirs will be. The house faces onto Evanston. She informed their neighbors to the north of them have no protest to this. She explained why they wanted to add to the side of the house rather than the back. The part of the house that they want to add on to now contains a little enclosed porch. There will be a privacy fence around the property--it will not be visible from the street once it is completed.

Protestants:

Loris Pittman, 2502 South College Avenue, lives just across 25th Street and behind the applicant. She submitted signatures of 53 seriously concerned protestants who are property owners in the immediate vicinity (Exhibit "E-3"). They want to keep and maintain the stable character of their neighborhood. She informed this is an older area with large lots and most of the homes were built in the 1940s and 1950s before the current Zoning Codes went into effect. Since that time, no variances have been granted in the neighborhood. She informed that 25th Street, at the applicant's corner, narrows abruptly to only 19 feet wide. That block has no curbs. This is the only corner between Lewis and College with no traffic signs stopping or yielding to 25th Street. Frequent accidents have occurred at this intersection. She informed that the applicant has much room at the rear of the dwelling for expansion without a variance--the lot is 100' x 165'. She informed that the homes in the area that are closer to the street were built that way long before the present Code was in effect. She is concerned about a precedent this could set in this area. Mrs. Pittman stated there is a question regarding the propriety of possible commercial use of the applicant's property. At least two of their vehicles have signs on them with the words "M and M Painting". These signs give the applicant's home phone number. The applicant receives mail addressed to "M and M Painting" at their home address and has advertised showing their home phone number. The applicant's garage is used for storage of paint drums and bulk along with necessary supplies of the painting business and not for the garaging of their vehicles. She informed there have been as many as five cars parked at various times in front of the applicant's property. The room on the 25th Street side of the house now has an outside entrance door. The room is not curtained and in the room is a desk and a phone--it appears to be used as an office.

Case No. 13025 (continued)

James Russell, 2527 South Evanston Avenue, lives about a half of a block south of the subject property. He signed the other protestant's petition because he is concerned about a commercial use going on in a residential neighborhood and because the street is a very narrow street. He is concerned that there could be some obstruction of view at the corner. He feels there is plenty of room in the back yard for the applicants to expand. He is not opposed to people adding on a room to their house, but he wants to make sure it does not adversely affect the neighborhood.

Applicant's Rebuttal:

Ms. Brown informed the addition will look better than what is presently on the property. This will not obstruct anyone's view.

Comments and Questions:

Mr. Smith asked the applicant if they carry on a business from this location. Ms. Brown informed her husband is a painting contractor and he has an office at the house. He will be losing his office because they need a family room. The desk will be moved into one of the spare bedrooms. They do not have any clients that come to their house. He does store his paint on the property. He does not have another office at any other location.

Mr. Victor stated that due to the size of the lot and the availability of the land, he does not believe that the applicant has demonstrated a hardship as to why the structure would have to encroach in the side yard.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to DENY 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 from the centerline of East 25th Street from 55' to 34.33' to permit an addition to an existing dwelling in an RS-2 District under the provisions of Section 1670, on the following described property:

Lot 6, Block 5, Bryn Mawr Addition to the City of Tulsa,
Tulsa County, State of Oklahoma.

Additional Discussion:

Mr. Jackere advised the applicant that if her husband is a painting contractor and all he did in the home was answer phone calls--not visit with any clients, not store any of his materials, not use his trucks and park them on the side, not have his employees come there, etc.--then there would probably be nothing wrong with that. The storage of equipment used in the business, whether it is painting equipment, paint, or anything else, is not permitted and is not appropriate in a residential area.

Action Requested:

Variance - Section 1221.5 (d 4) - CS District Use Conditions - Use Unit 1221 - Request for a variance to permit a 640 sq. ft. outdoor sign in a CS District under the provisions of Section 1670, located east of the NE corner of 51st Street and Yale Avenue.

Presentation:

Bill Stokely, 7242 East 38th Street, was represented by Casper Jones, 1302 South Fulton Avenue. The applicant is requesting to move the existing sign, which the Board approved and which is nonconforming, and make it smaller. He submitted a picture of the sign that is presently on the subject tract and a picture of the sign Mr. Stokely is proposing to put on the property (Exhibit "F-1"). The existing sign is 58 feet from the centerline of 51st Street. Mr. Stokely would like to move the sign to the east 60 feet and 60 feet from the centerline of 51st Street. The existing 672 square-foot sign was permitted by this Board. He presented an aerial photograph which shows the subject property. There are no other signs within 750 feet. He went over this with the sign inspector, and he said it was all clear. He presented a map showing the present and proposed location of the sign (Exhibit "F-2").

Protestants: None.

Comments and Questions:

Mr. Compton asked how much of a variance the applicant needed for display surface area. The applicant informed the sign on the property is 652 sq. ft. now, and they are wanting to go down to 640 sq. ft. Mr. Compton informed there is a formula within the Code for determining the square footage of display surface area. It would include not only the proposed sign, but any other signs that are on that tract as well. The Board needs to know how much of a variance they need--how much signage is there, how much this one is in excess of the signs, or if it meets the display surface area formula.

Mr. Smith asked if this was the site of the new shopping center that was heard by the Board a couple of meetings ago. The shopping center would have some signs also. The applicant informed this sign would be in the middle of the parking lot.

Mr. Jackere asked the applicant what would be permitted under the sign code today in terms of display surface area. The applicant informed he has no idea. Mr. Bill Stokely informed 2.5 square feet per lineal frontage is what is allowed. The lot is currently undeveloped. The big sign is going to stay if this request is not granted. The sign is nonconforming and he has the right to keep it right where it is now. He wants to move the sign and make it smaller--this will improve the situation physically for the landowner and the area. There will be a brand new shopping center going in there.

Mr. Jackere informed the policy of the law is to discourage the continuance of nonconforming uses and nonconforming signs. Mr. Stokely wishes the Board to consider the fact that the existing sign is larger as a hardship for putting in a smaller sign which would still not meet the Code.

Case No. 13026 (continued)

Mr. Stokely informed this is a grandfathered sign. The sign will stay there if this is denied.

Mr. Jackere asked if there was another reason, other than the fact that he already has the larger sign, which would justify the requested sign.

Mr. Stokely informed the subject tract is an \$830,000 piece of property. There is enough signage left so that the people can put all the signage they want to on the shopping center. He informed the neighbors all know about it and everybody thinks it will be an improvement. He will be making two signs out of one sign, but it will be less than half the size of the existing sign. It will not be as tall as the existing sign on the lot.

Mr. Compton informed if the tract is vacant now, then the sign formula is 2.5 sq. ft. per lineal foot of frontage. If it is developed, then that figure starts dropping down and the sign requirements, even the business signs for the businesses that will come in there, will have to be reduced to meet the Code.

Mr. Smith is concerned that the owner of the property may have to come in and ask for additional relief when they build their shopping center. Mr. Stokely informed this has all been calculated.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Variance (Section 1221.5 (d 4) - CS District Use Conditions - under the provisions of Use Unit 1221) to permit a 640 sq. ft. outdoor sign in a CS District under the provisions of Section 1670, on the following described property:

The S/2 of the SW/4 of the SW/4 of the SW/4 of Section 27,
Township 19 North, Range 13 East of the City of Tulsa,
Tulsa County, State of Oklahoma.

Case No. 13027

Action Requested:

Special Exception (Section 420.1 - Accessory Uses In Residential Districts - Accessory Uses Permitted - Use Unit 1206 - Request for an exception to permit a home occupation (dog grooming) in an RS-3 District under the provisions of Section 1680, located at the NE corner of East 13th Street and South Fulton Avenue.

Presentation:

Brian S. Gaskill, 1245 South Fulton Avenue, informed his wife is a graduate of a poodle-grooming school and she would like to groom dogs for her friends and family. She would be charging her friends and non-family members. She would have an ad in the yellow pages. There would be a maximum of 10 dogs a week and the business would be operated during the daytime hours--no nighttime activities. It would be conducted in their garage at their home. They have talked with the immediate neighbors and they have no objections at all. It would be conceivable for Mrs. Gaskill to have three dogs at the residence at one time. She can groom any size of dog, but she would be working mostly

Case No. 13027 (continued)

with smaller ones.

Valerie Gaskill, 1245 South Fulton, informed the dogs will be kept in a cage when she is not working on them. There will be no dogs running around loose. As soon as the dogs are finished, she contacts the owners and they come to get them. All the dogs would be inside.

Interested Parties:

Casper Jones, 1302 South Fulton, informed he has no objection to just the grooming of the dogs as long as the applicant complies with the home occupation rules. There is a fireman's junkyard in the area that he does object to.

C. M. Thomas, 1303 South Fulton, informed she is not against this application provided that it is not a continuing business that runs with the land. She also stated that she did not want the dogs to be allowed in the yard, and she would like the hours to be daytime hours.

Comments and Questions:

Mr. Smith informed Mrs. Thomas that this Board customarily makes it a condition that this kind of approval runs with the owner that it is granted to only, and not with the land.

Mr. Jackere asked if Mr. Gaskill had any objection to approval being conditioned upon so long as the premises are owned by and resided in by him and his wife. Mr. Gaskill informed they would have no objection to that.

Mr. Smith asked what the hours of operation would be, and Mr. Gaskill informed his wife would work 6 days a week. Mrs. Gaskill informed she would not take any dogs as customers after about 2 o'clock. She does not want more than three a day. The dogs would probably come in the morning and would usually be gone by noon. She could possibly have to keep some all day. From 8:00 a.m. until 5:30 p.m. would be the maximum hours of operation. Those hours would be to accommodate working people.

Board Action:

On MOTION of CHAPPELLE and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Special Exception (Section 420.1 - Accessory Uses In Residential Districts - Accessory Uses Permitted - under the provisions of Use Unit 1206) to permit dog grooming in an RS-3 District under the provisions of Section 1680, subject to the following conditions: (1) That it run with this owner only as long as the premises are owned by and resided in by the applicant; (2) that the days of operation be 6 days a week (Monday through Saturday); (3) that there be a maximum of three dogs a day; and (4) that the hours of operation be from 8 a.m. until 6 p.m., on the following described property:

Lot 9, Block 1, Smithville Second Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Additional Comments:

Mr. Smith informed the applicant that they also need to abide by all the other rules of the home occupation -- no signs, etc.

Action Requested:

Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1223 - Request for a variance to permit a storage building as the principal use on a lot of record in an RS-3 District under the provisions of Section 1670.

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD, and RM Districts - Use Unit 1223 - Request for a variance of the required setback from the centerline of Archer Place from 50' to 45' to permit a storage building in an RS-3 District under the provisions of Section 1670.

Variance - Section 1223.3 - Use Conditions - Use Unit 1223 - Request for a variance of the required screening of the abutting R District in an RS-3 District under the provisions of Section 1670.

Variance - Section 250 - Screening Wall or Fence - Use Unit 1223 - Request for a variance of the screening requirement to permit a chain link fence in an RS-3 District under the provisions of Section 1670, located east of the SE corner of South 25th West Avenue and Archer Pl.

Presentation:

Dayton Girdner, 3815 Charles Page Boulevard, owns Dayton's Trailer Hitch, Inc. They would like to put a storage building on the subject tract to store during normal working hours. He described the surrounding area and informed he owns the house right beside the subject property--one of his four employees lives in it. The storage building will be a nice looking building, and they would like to put a chain link fence around it. They will use it for storage of metal trailer hitches only. They will only come to the building once or twice a day, and those visits will be during normal working hours. They will use a pick-up truck to transfer items from the storage building. There will be a delivery to the storage building with a bob-tail truck occasionally. He submitted some pictures of the area (Exhibit "G-1"). His family has owned the subject tract for 35 years. He informed he went around to all the neighbors and they do not object to this. He will not do anything to devalue the property. Mr. Girdner described the kind of traffic they have in the area. This storage building will be approximately one mile away from the applicant's business. They are proposing to build a 22' by 50' steel metal building on a concrete slab. It will be painted and will be 14 feet high. Mr. Girdner informed there will be nothing stored outside and there will be no signs on the building. He informed he would like to have the chain link fence on the property line. The fence is for security purposes. He submitted a plot plan (Exhibit "G-2").

Protestants: None.

Comments and Questions:

Ms. Hubbard informed she has some real problems with this. The Engineering Department's atlas pages indicates that Archer Place is dedicated right-of-way. It just has not been improved as a street.

There was discussion about whether or not there was a water line running down Archer Place.

Mr. Victor asked if the applicant was running a business at one of the houses in the area. Mr. Girdner informed he runs a business on

Case No. 13028 (continued)

Charles Page Boulevard. This will be a well-kept, nice, plain building with no signs. It will be for storage only. He does not have enough space where he is at to store the items.

Mr. Victor asked if the second variance was a minor variance, and Mr. Jones informed he thinks minor variances deal with residential and this is not a residential use.

There was a question as to whether or not the Comprehensive Plan shows the property as being designated for industrial development.

Mr. Jackere informed the Comprehensive Plan shows the property as low intensity residential. All the property to the west where 25th West Avenue would run would be in a special industrial district, but all the property east of it is either in public use or low intensity residential. He suggested that the Board take a look at the site to see what is there.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to continue Case No. 13028 to the March 22, 1984, meeting to allow the Board members time to view the site.

Case No. 13029

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS-2 District under the provisions of Section 1680.

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1209 - Request for a variance of the time limitation for a mobile home from one year to permanently in an RS-2 District under the provisions of Section 1670, located south of the SW corner of East 14th Street and South 131st East Avenue.

Presentation:

Betty Sue Ramsey, 1371 South 99th East Avenue, informed they originally had a mobile home on the subject tract. They then built a home on the lot which the December tornado tore down. They would now like to put another mobile home on the lot. The proposed mobile will be new and will be 14' by 70'. There are five other mobile homes within two blocks of the subject property--one is across the street. There is an airport and a drilling company across the street from them. The mobile home will be on a septic tank. They checked with the Health Department and have been informed by them that the system is okay.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to approve a Special Exception (Section 410 -

Case No. 13029 (continued)

Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS-2 District under the provisions of Section 1680, subject to Health Department approval, and a Variance (Section 440.6 - Special Exception Uses in Residential Districts, Requirements - under the provisions of Use Unit 1209) of the time limitation for a mobile home from one year to five years in an RS-2 District under the provisions of Section 1670, on the following described property:

The South 150' of the East 150' of Lot 4, Block 11, Romoland Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13030

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1206 - Request for an exception to permit a mobile home in an RS-2 District under the provisions of Section 1680.

Variance - Section 208 - One Single-Family Dwelling Per Lot of Record - Use Unit 1206 - Request for a variance to permit two dwellings per lot of record in an RS-2 District under the provisions of Section 1670.

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1206 - Request for a variance of the time limitation from one year to permanently to permit a mobile home in an RS-2 District under the provisions of Section 1670, located south of the SW corner of 7th Street and South 127th East Avenue.

Presentation:

Ruby L. Griffin, 724 South 127th East Avenue, was represented by her daughter, Susan Sittler. The mobile home they would like to move on the tract was Mrs. Griffin's home. When she moved here, they could not find a place for her to park the mobile home. The subject tract has a home on it in which Mrs. Griffin now lives. They would like to sell the mobile home, but since they have been unsuccessful in attempting to sell it, they would like to park it on her property and rent it. It would be set back away from the street. The subject tract runs deep. She submitted a photograph of the subject tract (Exhibit "H-1") and explained it. They would like to set the mobile home halfway between the front and back fences. There is not a house directly in front of the subject property.

Protestants: Several letters of protest were submitted (Exhibit "H-2").

Mike Renee, 12526 East 7th Street, informed he is against this because the ground in the area is in a septic region. He does not think the area can handle this. The area is zoned for residential dwellings and he wants to keep it that way.

Jack Blackaby, 436 South 127th East Avenue, informed his family has lived in the area for 28 years. They own the property to the south of the subject property. He does not think that a mobile home will enhance the property. They have had problems with septic tanks in the area. It is his understanding that the applicant wants to hook this mobile home to the existing septic tank. He does not believe

the existing septic tank will handle it because it will not handle the single-family homes that are there now.

Mike Bukard, represented his mother-in-law who lives at 542 South 127th East Avenue. His mother-in-law opposes this variance because she feels that it will devalue her home. She does not feel that the applicant has shown a hardship because there are places to store this mobile home in the City of Tulsa. This is a very fine neighborhood that has been around for many years.

Earl Weir, 827 South 127th East Avenue, informed that he owns the property to the east of the subject property across the street. This is a nice neighborhood, and everybody has tried to improve their homes. He informed that Mr. Blackaby is the only one that owns rental property from 7th Street to 11th Street.

Applicant's Rebuttal:

Ms. Sittler informed she did not realize there were so many protests to this. This is on a septic tank. They wanted to replace the existing system with a larger one that would service both buildings. They don't see that it would be any different than having a house with two bathrooms. She informed there are already two mobile homes in this addition. They are not on this street, but are in the addition. This mobile home will be made a permanent home. It will be kept up and they will be very selective with renters. They plan to landscape the property and plan to put the mobile home on a permanent foundation and have permanent skirting.

Comments:

Mr. Victor informed Mr. Bukard that the use that the applicant has requested is a special exception which does not require that the applicant demonstrate a hardship. The variance that she has requested varying the time limitation from one year to permanently requires a hardship.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to DENY a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - Under the provisions of Use Unit 1206) to permit a mobile home in an RS-2 District under the provisions of section 1680, a Variance (Section 208 - One Single-Family Dwelling Per Lot of Record - under the provisions of Use Unit 1206) to permit two dwellings per lot of record in an RS-2 District under the provisions of Section 1670, and a Variance (Section 440.6 - Special Uses in Residential Districts, Requirements - under the provisions of Use Unit 1206) of the time limitation from one year to permanently to permit a mobile home in an RS-2 District under the provisions of Section 1670, on the following described property:

The N/2 of the S/2 of the NW/4 of the SE/4 of the SE/4, of Section 5, Township 19 North, Range 14 East, of the City of Tulsa, Tulsa County, State of Oklahoma.

Action Requested:

Variance - Section 750.2 - Location of Sexually-Oriented Business - Use Unit 19 - Request for a Variance of the 300-foot setback from a residential area to a 274' and 299' setback to permit an existing sexually-oriented business in a CS District under the provisions of Section 1670, located east of the NE corner of East 31st Street and Mingo Valley Expressway.

Presentation:

James O. Goodwin, P. O. Box 3267, submitted a large map and an aerial photograph (Exhibit "I-1"). He informed that he represents the owners of this tract of land. The property has no ingress or egress on the west side because it is bounded by the Mingo Valley Expressway system. It has no ingress or egress to the north side because it is bounded by a large wide creek that has an approximate drop of about 6 feet. The access to the tract of land is on 31st Street. He presented 7 photographs of the location of the subject tract (Exhibit "I-2"). He also submitted a measured graph (diagram) of the establishment and its relationship to the residences that are to the north of it (Exhibit "I-3"). Those measurements were prepared by Hammond Engineering by laser. He informed the issue here is the 300-foot distance. The Ordinance is silent as to the point of measurement. He described the measurements on the graph. This property is unique. The business is compatible with the zoning except for the setback. The business is lawful except for the distance prohibition. He informed there is no ingress or egress to the residences that abut the subject property. The establishment has been at this location for several years--he described the history of the property. The establishment which is currently on the subject property is known as the Tulsa Showplace. The peculiarity of the property is such that it is suited for its location. It cannot be utilized for residential and is zoned commercial. The business that is conducted there is lawful in the zoning. He pointed out that the shortage of the setbacks is just a shortage of a few feet. To the south of the establishment is a nonarterial street which measures well in excess of 400 feet. They believe that the topography, the separation from the residences by the Mingo Creek, the inaccessibility of any traffic to the rear of the residences, the lack of ingress and egress, and the particular shape and character of the land make it ill-suitable for any other use. They believe that the maintenance of the commercial establishment and the activity conducted therein does not do violence to the intent of the zoning of the area. They believe that the denial of the granting of this variance would be a hardship because it would make the operation of an otherwise lawful business impossible.

Comments and Questions:

Mr. Victor asked to what point the measurements on the graph were taken from the subject property. Mr. Goodwin informed the measurements were taken to the northern boundary fence lines of the residences they mailed notices to. There are cyclone fences and wooden fences at the residences.

Mr. Victor asked what the 274' and the 299' dimensions referred to. Mr. Goodwin described how they came up with these dimensions.

Mr. Wait asked why the fencelines of the residences varied. Mr. Goodwin could not explain this.

Mr. Victor informed that the distances referred to in the Zoning Code are from the structure to the property line of the residentially zoned property. Mr. Jackere informed the Ordinance is not clear as to what point at the business establishment you measure--whether it is the property line or the building. The business is to be 300 feet from the residentially zoned areas. He would construe that in favor of the landowner who wants to use his property in a particular fashion, since the Ordinance doesn't say, as being 300 feet from the building. The distance is measured to the Zoning District boundary line--which, in this case, is the residential zoning line. His understanding is that Mr. Goodwin is saying that if the rear fences are the rear property lines, then that is where he assumes the boundary line is. This is not necessarily true.

Mr. Victor informed that one document that was submitted indicates a measurement of ± 239 feet from one corner of the building to the property line. He wants to know what they are supposed to measure to.

Mr. Jackere informed that some computations made by Mr. Compton on the aerial map showed that there is 239' from the building wall to the fenceline and 299' from the building wall to the building wall of the residence.

Mr. Victor thinks the distance needed for the variance is neither 274' nor 299', but is probably something in the neighborhood of the 239'. Mr. Goodwin informed that after looking at the aerial photograph, it does appear that the distance is from building to building. Mr. Jackere informed if that is the case, it would be in the applicant's best interest to readvertise for the proper distance. It is not within the Board's jurisdiction to grant what the applicant needs based on the notice.

Mr. Goodwin asked that this matter be continued so he could submit a new publication.

Mr. Jackere informed the Board can go ahead and hear from the protestants and allow Mr. Goodwin to respond to their general comments. The question the Board will have will be what is the appropriate relief sought.

A protestant from the audience stated that the Board can decide today on whether or not they are going to allow this at all at less than 300 feet.

Mr. Jackere informed the applicant has a right to a public hearing on his application. He has the right to withdraw his application if there is something wrong with it. Instead of doing that, he is asking for a continuance to correct his application to give himself a fair opportunity to be heard. He feels that to make a decision on the application today (as relates to the 239') would be inappropriate. Mr. Jackere described the purpose for this hearing. Mr. Jackere informed the Board that he feels they can find today that the applicant has not met the burden of showing that there is a hardship. The argument for

the case is going to be the same irrespective of what the distance is. If the Board cannot find a hardship and justify the 274', then obviously the Board cannot find a hardship and justify something less than that--239'.

Mr. Goodwin again requested that this be continued noting the objections and the reappearance of the protestants for him to bring before the Board a clearer distance since that issue has been raised.

Mr. Jackere asked if there was any argument that Mr. Goodwin would make next time in terms of hardship or the other procedural or substantive requirements of the Code that he cannot make today. The Board can decide today whether the applicant has shown a hardship and whether he should even attempt to come back. He does not think the substance of the request would change other than the distance.

Mr. Victor informed this is all a matter of distance, because the use is permitted in that zoning district. If this is continued the applicant will come back seeking a greater variance next time. The Board can act on the application using what has been advertised, even though it is less. If they are not going to approve 274', then they probably will not approve 239'.

Mr. Wait requested that the Board hear from the protestants before a motion is made.

Protestants:

William Merrill Barron, 10740 East 30th Street, informed this business is an affront to him. Nobody in Tulsa wants this kind of business and the kind of patrons it attracts in their neighborhood and they do not want this business in their neighborhood.

Derl Wood, 10620 East 30th Street, informed his house is immediately behind the subject establishment. There are numerous occasions when they are disturbed. There is frequently a police car at the subject property and there has been an ambulance there as well. He does not believe that this variance should be granted.

Don Thompson, 10624 East 30th Street, lives directly behind the establishment. The hours of the establishment run into the early morning. When he purchased his house 3 1/2 years ago, this establishment was not there. There was a building, but it was not an establishment of this nature. The conduct of the place, with the noise, the bottles breaking, the people yelling, the music coming from the inside, and tires screeching, etc., does go into the early morning. He is concerned for the value of his property. Other people in the area are concerned for their children and their families. There is a lot of noise going on until well after midnight. He can hear the music from the establishment in his bedroom when he is trying to sleep.

Aaron Donaldson, 10616 East 30th Street, pointed out that the distance from the back of his property line to where their blacktop ends is about 80 or 90 feet. He asked if the subject property is properly zoned for this. It was his understanding that they were going to request a zoning change. He informed his wife and he can look out the patio door in the evenings and see three or four people step to the

back of the parking lot, urinate in the ditch, and throw cans and bottles in the ditch. It is a nuisance to have the establishment where it is. There are four schools in their neighborhood and the kids see what goes on in the parking lot. There is squealing of tires and ambulances and police cars have been called to the site. They invade his right to quiet and peaceful enjoyment of his property. He is concerned that this hurts his property values.

Charles Butler, 10744 East 30th Street, lives about a quarter of a mile up the creek from the establishment. There is considerable noise coming from the subject property. He cannot hear the noise while he is in his house, but he can hear it while he is in his yard. He informed the parking lot is filled to capacity on a busy night. Barricades have been put up which indicate that they exceed the capacity of the parking. People do congregate outside around the cars in the parking lot. There are always people standing outside. Noise is their main concern.

Ed Owen, 2624 South 108th East Avenue, informed most of the people in the area are bothered by this. He felt this should be shut down just as the similar businesses on 21st Street were shut down.

Anita Roberts, 10612 East 30th Street, lives behind the establishment. She informed the hours of the establishment are from around 11:00 a.m. until 2:00 a.m. They are disturbed at night by fights in the parking lot, they hear women screaming from time to time out in the parking lot, they are usually wakened at least once during the night when large containers of bottles are emptied into the dumpster, there is a lot of trash in the creek, and they use the creek as a second bathroom. The people in the area really do not want the establishment there. It brings an undesirable element into the area and they are very concerned about their property values and their families.

Nancy Donaldson, 10616 East 30th Street, submitted a protest letter from a doctor (Exhibit "I-4"). She informed the trouble starts at noon. The noise level is much too high. The beer bottles breaking in the middle of the night have made her think that someone was breaking into her home.

David Page, attorney, 900 World Building informed the burden is upon the applicant to show a hardship. In this situation, he feels that the equities show that there is no hardship upon the applicant. First of all, this is not a pre-existing use. Secondly, the applicant can relocate. The sections of the Zoning Code that are involved here would allow for sexually-oriented businesses in certain specific areas. They have to have proper use restrictions and also certain distance requirements. There are pieces of property that are available in Tulsa for this type of use. Thirdly, there is some confusion concerning the setback requirements in the Code. He does not read the setback requirement as being similar to a bulk and area requirement. The distance limitations are more in the nature of some type of neutral zone to prevent the uses within that distance. He suggested that this requirement is to protect the people in the residences. He suggested that the Code and the provisions of sexually-oriented businesses are just simply to protect the people.

Comments and Questions:

Mr. Victor requested that the protestants state specifically what about this business is detrimental to the neighborhood.

Mr. Victor informed Mr. Donaldson that this use is permitted in this zoning district subject to some specific setback requirements for sexually-oriented businesses. It is those setback requirements that they are in violation of--not the use. He would like to hear how those distances affect the people.

Mr. Jackere informed the businesses on 21st Street were not closed on a land use basis as far as he could tell.

Applicant's Rebuttal:

Mr. Goodwin requested that, since distance is an issue, this application be withdrawn if the Board feels not apt to grant him a continuance. He would like to withdraw the request and resubmit it because he does want to be sure that the record is accurate as to the distances they are requesting. He did not make this request earlier because the protestants were present and they did want to be heard.

Comments and Questions:

Mr. Victor stated that if this was for a business that did not exist and they were considering the nature of the setback requirements and what they mean, he might find himself prone to give some relief to the applicant in granting the request. In this case, where there is an existing business which has proven itself to be a nuisance to the residential area in which it is adjacent to, he feels that the consideration of the existing setbacks as expressed in the Code must be minimal or some other type of visual or buffer separation should be required. He cannot see drawing out the procedures for an extended period of time to allow for either a continuance or the withdrawal to refile again, because he does not think he could support this application as it is written. He moved that this application be denied.

Mr. Goodwin informed he wanted to officially request the withdrawal of this application before any action was taken.

Mr. Jackere stated that if the error was discovered before the proceeding began, the applicant would have had the right to withdraw. These proceedings are similar to a trial proceeding. Once the trial is begun, the plaintiff does not have the opportunity to dismiss his case without permission of the bench. His understanding of the motion that was made is that it is based upon the statements that the Board made that they have not seen a hardship to grant the relief that is advertised, and he wants the opportunity to ask for something even greater. If he cannot meet his hardship for this application, he certainly cannot meet it for a lesser setback.

Mr. Goodwin informed that since he did make a request for a continuance and since it was not acted upon and they heard the protestants, he believes that not having acted upon that motion he was led to the detriment based upon the advice of the Board's council to await a determination. With the drift of the discussion being what it is, he feels it is in the best interest of everyone if they put before the Board the correct distances. If the Board is not inclined to grant the request for a continuance, he would like for this to be withdrawn.

Case No. 13031 (continued)

Mr. Victor informed the applicant can always refile the application if he can come up with some kind of different circumstances. Mr. Jackere informed different circumstances would not be a greater or lesser setback request--it would have to be a change in conditions.

Mr. Goodwin informed his hardship is interwoven with the distance. He believes it is in his best interest to bring the accurate distances before the Board, should this matter be litigated subsequent to this date. He informed there is precedent for this kind of request. What is or is not a hardship is a subject of great volumes of law. He has a lawful business that is being conducted. The law does permit the right of the property owner to enjoy the benefits of the property. There is a clash of interest which this Board is duty bound to decide. The law is clear with respect to giving a man the full use of his property. It is clear that there is not a substantive showing that the health, safety and welfare of the adjoining property owners is in question. The absence of a substantial showing and the uniqueness of the property itself will give rise to the use of this property that is otherwise legal. He understands the protestants point of view. The nature and character of this business is not to their liking, but so are other kinds of activities not to their liking. He described other commercial establishments in the area. The noise that is being suggested that emanates from the area may or may not be from this business. He feels a denial of a citizen's right to utilize property that is otherwise lawful will be a hardship. He asked that the Board members view the premises.

Mr. Victor informed he had viewed the site this morning.

Mr. Goodwin requested once again that he be allowed to withdraw this application and resubmit the application with the accurate descriptions.

Board Action:

On MOTION of VICTOR and SECOND by WAIT, the Board voted 2-1-1 (Victor, Wait, "aye"; Chappelle, "nay"; Smith, "abstaining"; Purser, "absent") to DENY the applicant's request to withdraw this application.

On MOTION of WAIT and SECOND by CHAPPELLE, the Board voted 2-1-1 (Chappelle, Wait, "aye"; Victor, "nay"; Smith, "abstaining"; Purser, "absent") to continue Case No. 13031 to the March 22, 1984, meeting.

This motion failed.

On MOTION of VICTOR and SECOND by WAIT, the Board voted 3-0-1 (Chappelle, Victor, Wait, "aye"; no "nays"; Smith, "abstaining"; Purser, "absent") to DENY a Variance (Section 750.2 - Location of Sexually-Oriented Business - under the provisions of Use Unit 19) of the 300-foot setback from a residential area to a 274' and 299' setback to permit an existing sexually-oriented business in a CS District under the provisions of Section 1670, on the following described property:

A part of Lot 3, Block 1, Helen N. Commercial Center, being described by metes and bounds as follows, to wit: Commencing at the Southwest corner of Lot 3, Block 1, Helen N. Commercial Center, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof; thence

Case No. 13031 (continued)

Due North along the West line of Said Lot 3, a distance of 67.00 feet; thence Due East parallel to the South line of Lot 3, a distance of 25.00 feet to the Point of Beginning; thence North $0^{\circ}-36'-31''$ East a distance of 66.90 feet; thence South $89^{\circ}-23'-29''$ East, a distance of 56.60 feet; thence South $0^{\circ}-36'-31''$ West, a distance of 28.30 feet; thence South $89^{\circ}-23'-29''$ East, a distance of 5.20 feet; thence South $0^{\circ}-36'-31''$ West, a distance of 21.30 feet; thence North $89^{\circ}-23'-29''$ West, a distance of 5.20 feet; thence South $0^{\circ}-36'-31''$ West, a distance of 17.30 feet; thence North $89^{\circ}-23'-29''$ West a distance of 56.50 feet to the Point of Beginning, and Containing 3,890.61 square feet.

Case No. 13033

Action Requested:

Variance - Section 240.2 - Permitted Yard Obstructions - Use Unit 1206 - Request for a variance to permit a 160 sq. ft. accessory building in the front yard in an RS-2 District under the provisions of Section 1670, located east of the SE corner of 35th Street and Darlington Avenue.

Presentation:

Robert J. Chambers, 3516 South Granite Avenue, informed the applicants would like to put a storage building in their front yard. He submitted a plot plan (Exhibit "J-1") and he drew a picture on the chalk board of what he is proposing. There is already a (10' by 16') concrete slab poured. He described what has already occurred on the property. He described the placement of other storage sheds and accessory buildings in the immediate area. He submitted signatures of several people in the area who do not object to this (Exhibit "J-2").

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Variance (Section 240.2 - Permitted Yard Obstructions - under the provisions of Use Unit 1206) to permit a 160 sq. ft. accessory building in the front yard in an RS-2 District under the provisions of Section 1670, on the following described property:

The West 92.5 feet of Lot 3, Less the West 82.5 feet of the North 150 feet, Block 9, Yorkshire Estates, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13034

Action Requested:

Variance - Section 630 - Bulk and Area Requirements in the Office Districts - Use Unit 1211 - Request for a variance to permit a two-story building in an existing building in an OL District under the provisions of Section 1670, located west of the NW corner of South 69th East Avenue and South 66th East Avenue.

Presentation:

William D. Ridout, 9034 East 94th Street South, is an attorney representing James S. Swindler, 6511 East 56th Place. Mr. Swindler owns the subject property. Mr. Ridout informed late last year the builder of the office building that Mr. Swindler owns made an application to allow a two-story building. A building permit had been issued to allow a two-story building in an OL zoned area. After the building had been more than half completed with a second story, it was determined that a mistake had been made and the building was stopped. An application was made to this Board for a variance--the variance was denied. The building has now been completed after some work was done to eliminate part of the second floor. Mr. Swindler has had new plans drawn up and has also contacted some of the neighbors to try to work out some of the problems that had arisen previously. Mr. Swindler owns and occupies the building. When they built the building, it was envisioned that Mr. Swindler and Mrs. Swindler would use the building themselves and that they would need the space as it was originally drawn. When they were not allowed to complete the second floor, they

lost more than 1,000 square feet. They are now applying for an additional 1,000 square feet. The building will no longer hold their businesses. This has caused hardship to them in their businesses. This caused Mr. and Mrs. Swindler an economic hardship in that they expended \$15,000 to \$25,000 in constructing a building that would have been two stories and would have had much more square feet than what it currently has. Since they cannot use the available area in the second story, they have paid for a building that is much smaller than what they could have gotten for their money. The applicant is not currently planning to sell the building. Mr. Swindler has attempted to come to a compromise that will allow him to utilize approximately 1,000 square feet as an upstairs in the office building. The new plans provide for no change in the roofline of the building. The only external changes would be the addition of three windows in the back and two windows on the side of the building. He submitted 6 pictures of the building (Exhibit "K-1"). He also submitted a set of plans (Exhibit "K-2"). He described the new plans. One of the two windows on the side of the building could be eliminated with no problem--it is in the attic space. He feels it would be virtually impossible to look out the back windows and be able to view the activities of the neighbors. The purpose for having the windows are so that natural light could get into the area where artists will be working upstairs. Mr. Swindler was not aware of the violation of the Code when the building was first begun. It was not his intention to do anything that was in violation of the Code. An honest mistake was made and it did cost Mr. Swindler quite a few thousand dollars. He has tried to work with the neighbors to let them know that the changes would be minimal in outward appearance and that the reason would be to allow Mr. Swindler to recover in the long run the money he put into this building and also to allow them to use the space as they had originally intended. He does not feel that this would set a precedent in the area because it occurred under an unusual circumstance--a building permit was issued. It should have been caught by someone. He feels this fact distinguishes Mr. Swindler's situation.

Comments and Questions:

There was discussion about whether a building with a mezzanine is a one-story or two-story structure.

Ms. Hubbard asked about the difference in the proposed plans and the original plans. Mr. Swindler informed the original plans showed a two-story structure with approximately one-third of the total square feet of the building being upstairs. All they are asking now is to use what now is an attic. They want to put in a stairway.

Mr. Ridout informed the attic was framed in. When they were shut down, they had already framed in an upstairs. They had to tear part of it down and they had to change the roofline some. A large portion of what they had framed in upstairs remained framed in. They would like to use about one-half of what was originally planned. Mr. Ridout informed the appearance has been changed--it now looks like a one-story building. They have done as little as possible to make it look from the outside that it is anything other than a one-story building.

There was discussion about why the Board denied this application previously.

There was discussion about the original plans and the new plans.

Interested Party:

Ellis Gibson, 6926 South 67th East Avenue, owns a duplex which is within 300 feet of the subject property. He was the major protestant at the last hearing for this building. He pointed out that the homeowners in the area that he has talked to along with the Southeast Homeowner's Association wish to back Mr. Swindler in his request for a variance. He has done an outstanding job of cooperating 100 percent with the people in the area. The building is a credit to the whole area. The building is a little bit higher than other buildings in the area, but it still looks like a single-story structure. He would like it to be noted in the record that this exception is being granted by the Board because of the problem existing in the issuance of a building permit by mistake. He does not want this to set a precedent in the area.

Applicant's Comments:

Mr. Ridout informed one of the objections at the previous hearing was that this might affect the value of the houses in the area. He does not believe that it will have any effect on the value of the other houses. It serves as an attractive buffer in the area. They do not feel that it will obstruct the view of the neighbors any more than it currently does. It will not cause any invasion of privacy.

Comments:

Mr. Victor informed because of the mixup that has occurred on this Building Permit and the efforts of the applicant to modify the appearance of his building, which apparently have been successful, he might be inclined to permit it if this was a new application.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Variance (Section 630 - Bulk and Area Requirements in the Office Districts - under the provisions of Use Unit 1211) to permit a two-story building in an existing building in an OL District under the provisions of Section 1670, per revised plan, on the following described property:

Commencing at the most Easterly corner of Block 3, Plaza Village, an Amended Plat of SKYVIEW CENTER, an Addition in Tulsa County, Oklahoma, Said corner being on the Westerly line of South 69th East Avenue; thence North 65°-24'-10" West, along the Northeast-erly line of Said Block 3, for a distance of 185.28 feet to the POINT OF BEGINNING; thence continuing North 65°-24'-10" West, along the Northeasterly line of Said Block 3, for a distance of 66.05 feet; thence South 24°-35'-50" West for a distance of 194.74 feet to a point on the Southwesterly line of Said Block 3; thence Easterly along a curve to the left having a radius of 620 feet for a distance of 14.15 feet to a P.C.C. in the Southerly line of Said Block 3; thence continuing Easterly along a curve to the left having a radius of 1,505 feet for a distance of 52.87 feet to a point that is 191.35 feet Westerly from the Southeast corner of Said Block 3, measured along the Southerly property line of Said Block 3; thence North 24°-35'-50" East for a distance of 183.37 feet to the POINT OF BEGINNING.

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request for an exception to permit a mobile home in an RS-3 District under the provisions of Section 1680.

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Use Unit 1209 - Request for a variance of the one year time limitation for a mobile home to permanent in an RS-3 District under the provisions of Section 1670, located at 5914 South 30th West Avenue.

Presentation:

Lewis A. Elliott, Jr., 5914 South 30th West Avenue, submitted a diagram of the property as it will be set up (Exhibit "L-1"). He would like to have permission to put the mobile home on the subject tract.

Protestants:

Melba Shelton, 5912 South 31st West Avenue, informed she has lived in the area for 34 years. They have tried to keep their home up and abide by the rules. She informed the mobile home was snuck in and then the permit was asked for. She feels this is underhanded. She did not receive a notice about this. She lives one street over from the subject property. There are no other mobile homes in the area.

Mrs. Fred Smith, 5724 South 31st Street, informed she does not think the mobile home is a hardship case. She has 2 1/2 acres, and her house is an 1 1/4 acre. Several years ago, she considered putting a mobile home on the north 1 1/4 acre--she was denied permission to do this. They were told that there was an ordinance that mobile homes cannot be placed in the City Limits. She is against having mobile homes in the area if that is a City Ordinance.

Interested Parties:

Ann Dean, 5915 South 30th West Avenue, lives directly across the street from the subject property. She is for this application. The five people have lived in the two-room house for three years. She feels the mobile home will upgrade their property more than the existing little house. This will give the applicant a better place to live and will give the area a more attractive place. She informed this would raise the taxes for the school because the property will be of more value. She feels the property looks better with the mobile home than with the little two-room home.

Curly Mae Bowers, 5902 South 31st West Avenue, informed she is not against the applicant having the mobile home on the subject property since he is planning to make it his home. She is concerned about the variance to place it on the property permanently--she is against this. She feels that a mobile home placed on the property permanently will decrease her property values.

Applicant's Rebuttal:

Mr. Elliott submitted a picture of the house that he has been living in for the last 2 1/2 years (Exhibit "L-2"). It is a two-room house

Case No. 13035 (continued)

and it does not have running water or a bathroom. It has only a kitchen and a front room. His children have been sleeping on the front room floor and he and his wife have been sleeping in the kitchen. He plans to tear the little house down. There was water and gas to the house. The mobile homes that were put in the area and then removed were put in on a lot with an existing dwelling. He wants this to be a single-dwelling on the lot. He does plan to add on to it in the future and to put a composition roof completely over it. This would not downgrade any of the other property in the area. The mobile home is on the property because he had no idea he had to get permission from the Board. He informed he will tear down the house so he can get his septic system put in.

Comments:

Chairman Smith informed Mrs. Smith that the Board can vary the Ordinance to allow a mobile home in this sort of area if they see fit to do so.

Mr. Victor informed that very seldom does the Board ever grant a variance for permanent location of a mobile home on the first application. It is quite common for them to relax the one-year requirement.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Special Exception (Section 410 - Principal Uses Permitted in Residential Districts - under the provisions of Use Unit 1209) to permit a mobile home in an RS-3 District under the provisions of Section 1680, subject to Health Department approval, and a Variance (Section 440.6 - Special Exception Uses in Residential Districts, Requirements - under the provisions of Use Unit 1209) of the one-year time limitation for a mobile home to five years in an RS-3 District under the provisions of Section 1670, on the following described property:

The North 50' of Lot 23 and the South 50' of Lot 24, Block 3, Summit Parks Addition to the City of Tulsa, Tulsa County, Okla.

Case No. 13037

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1214 - Request for an exception to permit sales of dinette and bar stools, warehouse, and contract sales in an existing building in an IL District under the provisions of Section 1680, located at 4340 South Mingo Road.

Presentation:

Michael L. Cole, 10104 South Quebec, informed the building on the subject property was built in 1977, and it has been used under this Use Unit since it was built. It was a carpet store for 3 to 5 years and was a gift store after that. He described other exceptions in the area. He will utilize the building as it is. He will clean up the front of it a little.

Protestants: None.

3.8.84:408(33)

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Special Exception (Section 910 - Principal Uses Permitted in Industrial Districts - under the provisions of Use Unit 1214) to permit sales of dinette and bar stools, warehouse, and contract sales in an existing building in an IL District under the provisions of Section 1680, on the following described property:

A tract of land located in a part of the NE/4 of Section 25, Township 19 North, Range 13 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, being more particularly described by metes and bounds as follows, to wit:

Commencing at the Southeast corner of the NE/4 of Section 25, Township 19 North, Range 13 East; thence North $0^{\circ}-08'-44''$ West along the East line of Said NE/4 a distance of 697.05'; thence South $89^{\circ}-51'-16''$ West and perpendicular to the East line of Said NE/4 a distance of 51.95' to the Point of Beginning, said point being located on the Westerly right-of-way line of South Mingo Road; thence South $89^{\circ}-57'-41''$ West a distance of 320.00'; thence South $0^{\circ}-07'-58''$ East a distance of 270.00'; thence South $89^{\circ}-57'-41''$ West a distance of 289.15'; thence North $0^{\circ}-07'-58''$ West a distance of 625.42'; thence North $89^{\circ}-52'-02''$ East a distance of 331.00'; thence South $0^{\circ}-07'-58''$ East a distance of 150.00'; thence North $89^{\circ}-52'-02''$ East a distance of 236.76' to a point on the Westerly right-of-way line of South Mingo Road, Said point being 93.24' perpendicularly distant from the East line of Said NE/4 of Section 25; thence South $11^{\circ}-27'-20''$ East along the Westerly right-of-way line of South Mingo Road a distance of 210.52' to the POINT OF BEGINNING.

Case No. 13038

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Request for a variance of the setback requirement from the centerline of South Sheridan from 100' to 75' in a CS District under the provisions of Section 1670, located south of the SW corner of Sheridan Road and East 81st Street.

Presentation:

James Visintainer, P. O. Box 182, Broken Arrow, informed the applicant would like to put his business on this tract. He submitted a preliminary site plan (Exhibit "M-1") showing the relationship of the buildings proposed on this site with the adjacent properties. He stated that the actual configuration of the buildings could vary from what is shown on the plan. The purpose of the site plan is to show what they are trying to achieve with the 50-foot right-of-way and the additional 25-foot building line. He described the surrounding area. The applicant is concerned about visibility for his business. Because of the existing buildings to the south, if they use a 100-foot setback, his business will be in the background. They will be able to achieve sufficient parking for the site in the rear.

Case No. 13038 (continued)

Protestants: None.

Comments and Questions:

Chairman Smith informed the setback for the property to the south is a side yard setback, not a front yard setback. Mr. Visintainer informed he has a copy of the plat for the adjoining property on the south--he described the plat.

Mr. Jones informed the Staff has some problems with this. He described the uses in the area. All of the uses he described meet the required setbacks. Also, it does not look like the full 50 feet is dedicated on this property on Sheridan Road.

The Staff has some concern with this large of a lot asking for the encroachment 25 feet towards Sheridan.

Mr. Visintainer informed this property is in the process of being platted.

Mr. Visintainer informed the applicant does not think that the requested setback will cause any problems.

Mr. Smith asked if there are going to be two buildings on this property, and Mr. Visintainer informed there will be, but the upper floors will be connected.

There was a question as to whether or not this is advertised properly, and Mr. Jones informed it is because the 75 feet would take in the other building. He is asking for the greatest amount of relief needed.

Mr. Visintainer informed the owner is intending to occupy the building that is isolated. The space between the buildings is actually a drive-through. The upper floor is a separate building--he will not be occupying it. The applicant's primary concern is the building to the south.

Mr. Victor informed he cannot see that there is a hardship.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to DENY a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts) of the setback requirement from the centerline of South Sheridan from 100' to 75' in a CS District under the provisions of Section 1670, on the following described property:

Beginning at a point 208.72' South of the Northeast corner, Section 15, Township 18 North, Range 13 East; thence South 208.71'; thence West 417.42'; thence North 208.71'; thence East 417.42' to the point of beginning, also known as 81st Street and Sheridan Road.

Case No. 13039

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1214 - Request for a variance of the setback from the centerline of East 91st Street from 100' to 85' to permit a building in a CS District under the provisions of Section 1670, located at the SE corner of East 91st Street and South Delaware Ave.

Presentation:

William G. Elliott, 1918 East 51st Street, submitted a plot plan (Exhibit "N-1") and informed his hardship is a little nubbin on the west side of the property. The building faces north. He described his application and hardship. This piece of land is excess to this building to the east. This piece of property could not be used for anything without some relief. He described the size of the tract of land and how much land they have available to them. If they are permitted to build this building, they will have 22% land coverage which is below an OL situation. They have enough parking to support this land area. He submitted 4 photographs of the area (Exhibit "N-2") and described them. The house on the subject property will be removed. This variance will allow them to build a 1,500 sq. ft. building. The depth of the building will be 24 or 25 feet. This would be a nice building and will provide for proper utilization of the land. They are adhering to the west property line, so they will not be infringing on what might go in behind the property. They will not be blocking anyone to the south of the property. The building will house small community services. The subject property is close to Jenks.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Variance (Section 730 - Bulk and Area Requirements in Commercial Districts - under the provisions of Use Unit 1214) of the setback from the centerline of East 91st Street from 100' to 85' based on the shape of the property to permit a building in a CS District under the provisions of Section 1670, per plot plan, on the following described property:

Car Care Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13040

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1208 - Request for a variance of the east side yard setback from 10' to 4.5', the front yard setback from 10' to 9.1' and the rear yard setback from 10' to 9' in an RM-2 District under the provisions of Section 1670, located west of the NW corner of East 62nd Street and South Sheridan Road.

Presentation:

Robert S. Zelm, P. O. Box 4395, informed the building is in existence. He submitted a plat of survey (Exhibit "O-1"). The building has been in existence for 15 years. This relief is to clear up a title problem for sale. The building was inadvertently constructed in violation.

Case No. 13040 (continued)

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "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 1208) of the east side yard setback from 10' to 4.5', the front yard setback from 10' to 9.1' and the rear yard setback from 10' to 9' in an RM-2 District under the provisions of Section 1670, per plat of survey, on the following described property:

The West 100' of Lot 1, Block 1, of Resub. of Lot 2, Block 1, Deborah Jean Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13041

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the RS, RD, and RM Districts - Use Unit 1205 - Request for a variance of the maximum building height of 2 stories to 4 stories to permit an addition to Hillcrest Medical Center in an RM-2 District under the provisions of Section 1670, located at the NE corner of East 12th Street and Trenton Avenue.

Presentation:

David P. Page, 900 World Building, represented Hillcrest Medical Center. He presented architectural plans (Exhibit "P-1") showing the height changes and the location of the proposed change. He described the surrounding area. Hillcrest plans to expand their cancer center. Because of the development of the area, there is really no place to go but up. To relocate the cancer center away from the hospital complex would be a substantial hardship in their opinion. This four-story proposal was a part of the Hillcrest Master Plan that was proposed to the Board back in 1969 when it received its hospital use.

Protestants: None.

Comments and Questions:

Mr. Smith asked Mr. Page where the parking would be, and Mr. Page described the parking.

There was discussion as to why the applicant is seeking a height variance. Mr. Page informed the building will be about 55 feet high at its highest point. Mr. Jackere informed the Board will have to determine whether or not the advertisement is sufficient. He is advertised to go from two stories to four stories. The zoning district is a 35' height limitation--that is the only limitation for this use. The Board would not want to grant this unless it feels that the notice is sufficient.

Mr. Jackere informed a Building Permit cannot be issued until the required parking is on the lot of the use. Mr. Page informed there is parking on the premises. There was discussion about how much parking would be required.

Case No. 13041 (continued)

Ms. Hubbard informed parking requirements are based on one per bed in hospital use.

Mr. Page informed his understanding is that the additional use of the building will be for an auditorium for training and public information. He is not sure that the additional expansion will have more beds.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "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 1205) of the maximum building height of 2 stories to 4 stories (55') to permit an addition to Hillcrest Medical Center in an RM-2 District under the provisions of Section 1670, per plans submitted, on the following described property:

Lots 3, 4, 5 and 6, Block 2, Forest Park Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13042

Action Requested:

Special Exception - Section 420.2 - Accessory Uses in Residential Districts - Use Unit 1206 - Request for an exception for a home occupation (beauty shop) in an RS-3 District under the provisions of Section 1680, located north of the NW corner of South 29th West Avenue and West 45th St.

Presentation:

Sherrie J. Hartman, 4332 South 29th West Avenue, informed she would like to have a beauty shop in her home. She would be open Monday through Saturday from 8 a.m. until 7 p.m. She wants to have this in her home because she has two small children and she wants to be home with them. She has a two-car garage and a two-car driveway. She could get four cars on the driveway. She would stagger her appointments. She informed she lives on a dead-end street and there are six new homes. She is the next to the last home. She is familiar with the home occupation requirements, and she will not have anyone working for her.

Protestants: None.

Comments:

Mr. Jones explained why the map looked as if this application splits two houses.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Special Exception (Section 420.2 - Accessory Uses in Residential Districts - under the provisions of Use Unit 1206) for a home beauty shop in an RS-3 District under the provisions of Section 1680, to operate from Monday through Saturday from 8 a.m. until 8 p.m., per the Home Occupation Guidelines, and to run as long as this applicant lives on the property, on the following described property:

Case No. 13042 (continued)

Lot 15, Block 2, Park Second Resub., an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 13043

Action Requested:

Variance - Section 207 - Street Frontage Required - Use Unit 1206 - Request for a variance of street frontage requirements to permit 4 single-family lots having access to a private street in an AG District under the provisions of Section 1670, located north and west of the NW corner of 101st Street and Yale Avenue.

Presentation:

Chairman Smith informed that the applicant, Roy Johnsen, 324 Main Mall, requested that this case be continued to the March 22, 1984, meeting.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 4-0-0 (Chappelle, Smith, Victor, Wait, "aye"; no "nays"; no "abstentions"; Purser, "absent") to continue Case No. 13043 to the March 22, 1984, meeting.

Case No. 13044

Action Requested:

Variance - Section 240.2 (e) - Yards - Permitted Yard Obstructions - Use Unit 1206 - Request for a variance of the maximum area of 750 sq. ft. for an accessory building to 792 sq. ft. for an existing accessory building in an RS-3 District under the provisions of Section 1670, located at the NE corner of Woodward Boulevard and 27th Place.

Presentation:

J. Harvie Roe, 1203 East 27th Place, informed this is an existing structure. He submitted 2 pictures (Exhibit "Q-1") and some plans (Exhibit "Q-2"). The structure was built beginning late in 1979. The room in question was framed out, but they ran out of money and were not able to finish it at the time. They became part of the Home Improvement Loan Program and would now like to finish the room. This is termed an accessory building because it is detached from their house. It can be used as a study and then double as an extra room if they have company. The garage is detached because the architect felt it would blend in more with the structures in the area. This is above a garage. He does not want to turn this into an apartment to rent out.

Protestants: None.

Comments and Questions:

Mr. Victor asked why Mr. Roe is here today. Mr. Roe informed he applied for a permit when he got his financing. The structure has to be closed by the end of April or he will lose his loan commitment.

There was a question as to whether his original permit included this room. Mr. Jackere informed the Building Permit may have expired.

Case No. 13044 (continued)

Normally a Building Permit only lasts for two years; however, if you begin construction, there is nothing saying you have to carry it through.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve a Variance (Section 240.2 (e) - Yards - Permitted Yard Obstructions - under the provisions of Use Unit 1206) of the maximum area of 750 sq. ft. for an accessory building to 792 sq. ft. for an existing accessory building in an RS-3 District under the provisions of Section 1670, subject to it not being turned into an apartment or rented out for any other living purposes, on the following described property:

Lot 8, Block 16, Sunset Terrace an Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

OTHER BUSINESS:

Minutes for Case #13006:

Action Requested:

Consider approval of Minutes for Case #13006 heard February 23, 1984.

Presentation:

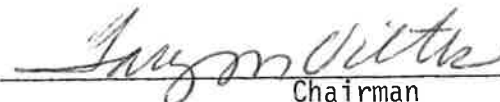
Mr. Jones informed this case was denied by the Board and has been appealed to District Court.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Purser, Wait, "absent") to approve the Minutes for Case No. 13006 heard February 23, 1984.

There being no further business, the Chair adjourned the meeting at 6:10 p.m.

Date Approved APRIL 5, 1984


Chairman