

CITY BOARD OF ADJUSTMENT
Minutes of Meeting No. 416
Thursday, June 28, 1984, 1:00 p.m.
Langenheim Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Chappelle Clugston Purser (in at 1:15, out at 4:30) Victor	Smith	Gardner 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, June 26, 1984, at 11:39 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Mr. Chappelle called the meeting to order at 1:10 p.m.

MINUTES:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to approve the Minutes of May 31, 1984, (No. 414).

UNFINISHED BUSINESS:

Case No. 13135

Action Requested:

Variance--Section 430--Bulk and Area Requirements in the Residential Districts--Use Unit 1206--Request a variance of the setback from the centerline of 14th Street from 50' to 36' to permit a carport in an RS-3 district under the provisions of Section 1670, located at the southwest corner of 14th Street and Delaware.

Presentation:

The applicant, Cal Johnson, 2151 East 29th Street North, informed they would like to install a carport. This is a corner lot and the carport will be parallel with the houses across the street (Delaware) from the subject tract. They would like to put the carport at this location because they do not have enough room at the rear of the house for the carport. He submitted a plot plan (Exhibit "A-1") and two photographs (Exhibit "A-2").

Protestants: None.

Comments and Questions:

Mr. Gardner informed that in order to grant a variance, the Board must find something unique about this application. The applicant has

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Case No. 13135 (continued)

stated two things that he says are unique about this. The size of the tract is inconsistent with most of the tracts in this area--it has been that way for a long time. There are two houses on, basically, a piece of property. The other unique situation is that the houses across the street to the east of the subject tract front Delaware just as his house does, but they are sitting just as close to 14th Street as he would like his carport to sit. There are houses to the west that front north that would not line up with this. The Board needs to be sure and identify some features that make this unique as compared to other properties in the area.

Mr. Gardner informed that this carport is not an aluminium carport--it actually has rafters, a pitch roof, and rock around the posts and the sides of the structure. Mr. Johnson informed this structure would enhance the area.

Mr. Clugston asked the applicant if they have worked on the carport since his last appearance at the Board, and Mr. Johnson informed that they have not.

There was discussion about why Mr. Johnson started the carport without a building permit.

Mr. Johnson informed this was the first house built on Delaware and 14th Street. Everything was lined up after this house was built.

Mr. Victor asked what roof materials would be used, and Mr. Johnson informed it will be made of asphalt shingles.

Mr. Clugston informed that the plan submitted by Mr. Johnson shows that the carport will be 34 feet from the centerline and not 36 feet as was applied for.

Mr. Clugston informed the applicant that this looks like it would be a very attractive addition, but he is concerned that the carport will block the view of the neighbors. Mr. Johnson informed that this will not block anyone's view.

Mr. Jackere informed the Board that they only have the authority at this meeting to grant relief from 50' to 36'.

There was discussion about how this case relates to Section 1440-a of the Zoning Code concerning non-conforming uses.

There was discussion about how this would affect this block and the surrounding area.

Mr. Gardner informed the Board should condition approval of this upon the applicant not enclosing the carport.

Case No. 13135 (continued)

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 3-0-1 (Clugston, Purser, Victor, "aye"; no "nays"; Chappelle, "abstaining"; Smith, "absent") to approve a Variance (Section 430--Bulk and Area Requirements in the Residential Districts--under the provisions of Use Unit 1206) of the setback from the centerline of 14th Street from 50' to 36' to permit a carport in an RS-3 district under the provisions of Section 1670, per application, and subject to the applicant or the owner of the property not enclosing the walls of the carport, on the following described property:

Lot 1 and E/2 Lot 2, Block 1, City View Hill Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13157

Action Requested:

Special Exception--Section 310--Principal Uses Permitted in the Agriculture District--Use Unit 1224--Request a special exception to permit an oil well in an AG district under the provisions of Section 1680, and a Variance--Section 310--Principal Uses Permitted in the Agriculture District--Use Unit 1224--Request a variance to permit an oil well in an AG district under the provisions of Section 1670, located south of the southeast corner of 71st Street and South Elwood.

Presentation:

The applicant, Charles Sublett, 1776 Williams Center, submitted an aerial photograph (Exhibit "B-1") and described the terrain of the surrounding area. The area is sparsely populated as far as residential uses are concerned. There is a wide variety of light agricultural uses and some home occupations. One of the principal uses in the area is oil production. He resubmitted a mid-continent map showing all the oil wells that have been drilled over the years in the area (Exhibit "B-2") and a copy of current crude oil production reports showing that the subject tract is surrounded by producing leases (Exhibit "B-3"). He also submitted a petition signed by the owners of the surface of the subject tract and all of the property owners within 30 feet (Exhibit "B-4") which states that they request that the application be approved. Mr. Sublett informed that two meetings ago the question was raised as to whether or not minerals included oil and gas. He submitted a Federal Case from the Eastern district of Oklahoma that states that under Oklahoma law "there is no question that minerals includes oil and gas" (Exhibit "B-5"). Mr. Sublett informed that the reason he requested a continuance from the last meeting was so that they could avoid getting into a technical issue over whether minerals and mining and mineral processing includes oil and gas--that is why he advertised for a variance this time. Mr. Sublett informed that the terrain in the area where the oil well is located is rugged and rocky and is not good for much of anything. The owner of the tract has oil producing properties basically all around his property that are lawful because

Case No. 13157 (continued)

they have been producing over the years. If he cannot produce the oil from under his property, his oil is going to be drained by the adjoining oil wells and he will be deprived of the benefit of the property that is his.

Protestants: None.

Interested Parties:

Jack A. Heath, 7505 South Elwood, the owner of the subject tract, was present and informed that he concurred with what is being requested.

Comments and Questions:

Mr. Clugston asked Legal Counsel if the Board has the authority to act on this and how it would affect the City Ordinances.

Mr. Jackere presented a letter to the Board. He informed that the Code was amended to remove the drilling, mining, or production of oil and gas from the Use Unit 24. It is his opinion that every principal use of property, whether it is mentioned in the Code or not, is included in one of the Use Units. This would fit into Use Unit 24. He feels that the case that Mr. Sublett cited is consistent with that--that production of oil and gas is mining or mineral processing. In this respect, he thinks it is subject to the special exception consideration because in the agricultural district mining and mineral processing is a special exception. Mr. Jackere informed there is a prohibition in the City of Tulsa in a City Ordinance other than the Zoning Code that prohibits the drilling, mining, or production of oil, gas, and coal (hydrocarbons). The Board's job is to consider land-use issues, and if there is some other law such as this prohibition that prevents the applicant from utilizing the relief that the Board might give him, then the applicant will have to deal with that. He suggested that the Board consider conditioning approval on resolution by the applicant of the prohibition found in the penal code. The applicant needs to be advised of the prohibition and needs to be told to deal with it.

There was discussion about where the well is located on the property and how close it is to a residence.

There was discussion about conditions that could be imposed should this be approved.

Board Action:

On MOTION of CLUGSTON and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Special Exception (Section 310--Principal Uses Permitted in the Agriculture District--under the provisions of Use Unit 1224) to permit an oil well in an AG district under the provisions of Section 1670, subject to Health Department approval, subject to the applicant solving the problem of the prohibition of the Penal Code, and subject to it being limited to one oil well on this property, on the following described property:

Case No. 13157 (continued)

The S/2 of N/2 of SW/4 of NW/4 and of S/2 of N/2 of N/2 of SW/4 of NW/4 of Section 12, T-18-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13181

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance of the maximum building height from 35' to 38' to permit construction of a dwelling in an RS-2 district under the provisions of Section 1670, located northwest of the northwest corner of 79th Street and Sandusky.

Presentation:

The applicant, Donald J. Perrenoud, 7225 South 85th East Avenue, submitted some plans (Exhibit "C-1") and informed he owns the subject tract. He proposes to build a three-level house on the site which slopes approximately two to one. The dwelling will exceed the allowed 35 foot height. The house projects approximately 25' above the curb line, so in theory, if it were on a flat site with a basement, they would not have the problem. He described how the Building Inspections Department figures the height of buildings. Mr. Perrenoud informed the subject tract is located on a city street and this development is on a fairly severe hillside. He informed that the house to the north of him is across the cul-de-sac. He described that house.

Protestants: None.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--under the provisions of Use Unit 1206) of the maximum building height from 35' to 38' to permit construction of a dwelling in an RS-2 district under the provisions of Section 1670, per plan submitted, on the following described property:

Lot 2, Block 1, Oak Forest Hill addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13177

Action Requested:

Special Exception--Section 710--Principal Uses Permitted in Commercial Districts--Request an exception to permit Use Unit 17 in a CS district under the provisions of Section 1680, and a Variance--Section 1217--Automotive and Allied Activities--Request a variance of the required screening from an abutting R district and a variance to permit open air storage or display within 300' of an adjoining R district, located east of the southeast corner of Columbia Avenue and Mohawk Boulevard.

Case No. 13177 (continued)

Presentation:

The applicant, John D. Harris, 4417 South Lewis, informed the contiguous property to the east is condemned. He presented pictures of this property and described the surrounding area. He would have no objections to fence the property when and if the property to the east becomes livable under the Health Code. The property is located such that it is impossible for anyone to see the east side of the property because of the growth and the vacancy of the adjoining property. This would not be a detriment to anyone in the area. The open air storage is to permit automobiles to be displayed for purposes of sale.

Protestants: None.

Comments and Questions:

Mr. Gardner informed that at the last meeting the applicant said that this would specifically be for auto sales--It is not just anything that falls in Use Unit 17. The Board should limit this to auto sales if that is their intent. He informed there is nothing to the east of the subject property to screen.

Ms. Purser asked the applicant how many automobiles they would like to have on the property, and Mr. Harris informed the tract consists of approximately three acres and they would like to put as many cars on the lot as the lot and their finances would allow.

Ms. Purser informed that the Board is concerned that the cars will be put on the property in an orderly manner with plenty of traffic-way in between. Mr. Harris informed the lot would easily accommodate a hundred or more cars. The cars will be parked against the building and against the fence with a complete driveway through for traffic. They will maintain an orderly place.

Ms. Purser asked the applicant if he plans to have the business open in the evening, and Mr. Harris informed it would be open until about 8 o'clock. They currently have lights on the building, and this is a well-lighted area. The existing lights do not reflect onto any of the neighbors because of the growth on surrounding property. They are already fenced to the west.

Ms. Purser informed that if any more lighting were added, she would want it to be inward directed. Mr. Harris informed that would be acceptable.

Mr. Victor asked Mr. Gardner about the variance of the screening requirement. Mr. Gardner informed that the applicant is asking that the Board waive the requirement for screening on about 125 to 150 feet on his southeastern boundary. Mr. Harris informed the property to the east is a dump and it would be to their advantage to screen it more than it would be to the advantage of the property owners of the land to the east.

Case No. 13177 (continued)

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Special Exception (Section 710--Principal Uses Permitted in Commercial Districts) to permit Use Unit 17 in a CS district under the provisions of Section 1680, and a Variance (Section 1217--Automotive and Allied Activities) of the required screening from an abutting R district and a variance to permit open air storage or display within 300' of an adjoining R district, subject to it being restricted to auto sales only, and subject to any lighting that is erected being directed inward onto the property, on the following described property:

A tract of land located in Lots 5 & 8, Barrett and Evans Subdivision, Tulsa, Oklahoma, according to the recorded plat thereof being more particularly described as follows: Beginning at a point on the North and South center line of Lot 8, 519.2 feet N. of the SE corner of the W/2 of Lot 8; thence N. along said N. and S. Center line a distance of 141.7 ft. to the NE corner of the W/2 of Lot 8; thence W. along the lot line common to Lot 5 and Lot 8, a distance of 53.65 ft.; thence N. a distance of 90 ft. to a point on the S. property line of Mohawk Blvd. in Lot 5 of Barrett and Evans Subdivision; thence in a southwesterly direction along the S. Property line of Mohawk Blvd. a distance 113.03 ft.; thence S. 5 degrees 30 min. E. a distance of 198.0 ft.; thence E. a distance of 136.0 ft. to the point of the beginning.

Case No. 13182

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance of the rear yard setback from 20' to 10' to permit construction of a dwelling in an RS-3 district under the provisions of Section 1670, located north and west of the northwest corner of 19th Street and St. Louis.

Presentation:

The applicant, Robert E. Buchner, Architect, 2121 South Yorktown, submitted a plot plan (Exhibit "D-1") and an elevation plan (Exhibit "D-2") and described the subject tract.

Protestants: None.

Comments and Questions:

Mr. Victor asked if the applicant would meet the livability requirements on the lot. Ms. Hubbard informed she does not believe they have an application for a building permit.

Ms. Purser asked the applicant why he did not know that there was a 20' rear yard setback. Mr. Buchner informed he was given a plat by the developers which is signed by the City Commissioners. The plat

Case No. 13182 (continued)

has the building lines on it and the easements, and he just presumed that there was just a 10 foot easement on the rear yard.

Mr. Gardner informed the only thing that would show on the plat would be a front setback. The rear setback is not usually shown on a plat. Generally just utility easements are shown.

Ms. Hubbard informed that in another case there were platted building lines on the plat that were not in accordance with the Code.

Mr. Jackere informed that the City has to approve the plat. Ordinarily the plat does not show the zoning requirements for the rear yard and side yard. It may not even show the front setback accurately.

Mr. Victor informed that when the developers came for the lot-split variances he did not think they would be able to get houses of the size and character of the neighborhood on these lots.

Ms. Purser informed the Board expressed concern about the size of the lots when they were divided, and it does not seem to be the intent of the City Code for the Board to approve lots to divide and then come back and grant a variance on them because the house is too big.

Mr. Jackere informed the Board has a dilemma. If the applicant wants to build a house that is consistent with the neighborhood, then the Board needs to give him the variance; otherwise, the applicant has to build a smaller house.

There was discussion about previous actions on this lot. Mr. Gardner informed the Board granted relief on these lots and later rescinded that relief at the request of that applicant. The lot before the Board today never came before the Board. That previous applicant platted the property where it met all the ordinances and he did not need the Board's relief. There was no relief necessary in this instance.

Mr. Gardner informed the only issue is the variance of the rear yard. Variances are usually granted based on some unusual circumstance. Shape of lot can be an unusual circumstance. This lot is not a typical rectangular-shaped lot. The Board must decide if it is sufficient, looking at the structure and the layout, to grant the variance. The applicant may need relief somewhere to get a large house on an unusual-shaped lot. The applicant probably meets the livability requirements.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD, and RM districts--under the provisions of Use Unit 1206) of the rear yard

Case No. 13182 (continued)

setback from 20' to 10' to permit construction of a dwelling in an RS-3 district under the provisions of Section 1670, per plot plan submitted because of the unusual shape of the lot, on the following described property:

Lot 5, Swan Lake Estates, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13190

Action Requested:

Variance--Section 330--Bulk and Area Requirements in the Agriculture District--Use Unit 1206--Request a variance of the setback from the centerline of internal streets from 60' to 50' in an AG district under the provisions of Section 1670, located east of the southeast corner of 101st Street and Sheridan.

Presentation:

The applicant, Phillip G. Smith, 5157 East 51st Street, was represented by Tom Creekmore, 201 West 5th, Suite 400. Mr. Creekmore informed that this property is in the process of being platted and was originally submitted to the Technical Advisory Committee with a private street. At the request of the T.A.C., they have resubmitted the plat with a publically dedicated street. He submitted a T.A.C. checklist which indicates their recommendation that this Board approve a 25 foot setback which is consistent with adjoining subdivisions (Exhibit "E-1"). The purpose of the variance is to allow a dedicated street--they are trying to meet the City's requests. Mr. Creekmore submitted a plat (Exhibit "E-2").

Protestants: None.

Comments and Questions:

Mr. Victor asked what the hardship is, and Mr. Creekmore informed that the City is asking for a public dedicated street. They are entitled to a private street.

Mr. Gardner informed that the subject tract is zoned AG and needs a 35 foot setback in addition to half the right-of-way--that would make a total of 60 feet. The applicant wants to build within 50 feet of the centerline which would be a 25 foot setback. The property abutting to the west is zoned RS-3--their setbacks are 50 feet from the centerline. The properties across the street from the north are zoned RS-3, and their property setbacks would be 50 feet. There are two ways to relieve the applicant's problem--he can rezone the property to RS-3, or he can get relief from this Board. Granting this relief and tying it to the plat may be more commensurate with what is in the area than having the property rezoned would be.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no

Case No. 13190 (continued)

"abstentions"; Smith, "absent") to approve a Variance (Section 330--Bulk and Area Requirements in the Agriculture District--under the provisions of Use Unit 1206) of the setback from the centerline of internal streets from 60' to 50' in an AG district under the provisions of Section 1670, per plat submitted, on the following described property:

The W/2 of W/2 of NE/4 of NW/4 of Section 26, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS:

Case No. 13195

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance of the rear yard setback from 25' to 20' in an RS-1 district under the provisions of Section 1670, located at the southeast corner of 62nd Street and Oswego.

Presentation:

The applicant, Tom Ernest, 6130 East 32nd, Suite 114, represented the owner of the subject tract. Mr. Ernest submitted a plot plan (Exhibit "F-1") and informed they need this variance to allow for the application of a plan that was designed in minimum requirements of the owner for the living area. The front setback facing Oswego is 35 feet.

Protestants: None.

Comments and Questions:

Mr. Gardner informed the applicant has 35 foot setbacks from two different streets because this is a corner lot. This pushes the house back farther, and sometimes relief is needed because it is a corner lot.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--under the provisions of Use Unit 1206) of the rear yard setback from 25' to 20' in an RS-1 district under the provisions of Section 1670, per plot plan submitted, on the following described property:

Lot 1, Block 2, Braeswood addition to the City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS:

Case No. 13179

Action Requested:

Variance--Section 330--Bulk and Area Requirements in the Agriculture District--Use Unit 1206--Request a variance of the lot width from 200' to 145', of the lot area from 2 acres to .75 acres, and of the land area from 2.2 acres to .84 acres in order to permit a lot split in an AG district under the provisions of Section 1670, located west of the northwest corner of 91st Street and Elwood.

Presentation:

The applicant, Beverly Hart, 811 West 91st, informed she would like to get this lot split in order to complete the financing. There is a wide variety of lots in the area. She presented some photographs showing these different sizes of lots and several letters from neighbors saying that they are in total agreement with this request. She submitted a plot plan (Exhibit "G-1") and described it.

Protestants: None.

Comments and Questions:

Mr. Victor asked the applicant what the purpose of the lot split is, and Ms. Hart informed it is to build one house. There is one house on the piece of property right now.

Mr. Gardner described the difference between the land area and the lot area in an AG district.

Mr. Gardner informed that the applicant convinced the Planning Commission that there are other lots of similar size in the area that would justify going from 2 acres down to .75 acres. This was approved subject to approval by this Board and Health Department approval. There is some question as to whether or not the land will percolate.

Mr. Victor asked if approval of this should be conditioned upon the lot being used for residential use and not agricultural uses. Mr. Gardner informed there would still be agricultural zoning all around and they would be the exception rather than the rule. If it were the other way around, it would be a different situation.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 330--Bulk and Area Requirements in the Agriculture District--under the provisions of Use Unit 1206) of the lot width from 200' to 145', of the lot area from 2 acres to .75 acres, and of the land area from 2.2 acres to .84 acres in order to permit a lot split (L-16183) in an AG district under the provisions of Section 1670, subject to Health Department approval, on the following described property:

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Case No. 13179 (continued)

The SE/4 of the SW/4 of the SW/4 of the SE/4 of Section 14,
T-18-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13192

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance of the side yard from 5' to 0', of the lot width from 60' to 31', of the lot area from 6,900 sq. ft. to 4,150 sq. ft., and of the land area from 8,400 sq. ft. to 4,980 sq. ft., all in order to permit lot splits in an RD district under the provisions of Section 1670, located at the northwest corner of 61st Street and Union.

Presentation:

The applicant, Dennis Hall, 3036 West 78th, informed they would like to split 8 duplexes which are under construction into 16 individual units. The Staff has recommended approval of this split based on the size of the lots in the area in the subdivision and because there will be no increase in density. The recommendation by the Planning Commission was that it be subject to the approval of the Board of Adjustment and a common wall and utility agreement. The Planning Commission has already approved the lot splits. He submitted the stem wall survey (Exhibit "H-1") as the actual foundations have been constructed. They have 29 duplex lots in the subdivision, and it was a hardship for them to have to replat the lots because they are not actually building all of the duplexes at the same time. They are building in phases. To do a replatting, they would have to furnish stem wall surveys all at the same time and show exactly where the stem walls were on the ground.

Protestants: None.

Comments and Questions:

Mr. Gardner informed that it has been the policy of the Staff and the Planning Commission that they will not grant a lot split for a duplex until that duplex is actually started. If the lot split is granted first, then they have the right under the Code to build single family dwellings on the substandard lots.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--under the provisions of Use Unit 1206) of the side yard from 5' to 0', of the lot width from 60' to 31', of the lot area from 6,900 sq. ft. to 4,150 sq. ft., and of the land area from 8,400 sq. ft. to 4,980 sq. ft., all in order to permit lot splits (L-16187-90) in an RD district under the provisions of Section 1670, on the following described property:

Case No. 13192 (continued)

Lots 1, 6, 7, 8, 9, 10, 14, and 15, Block 5, amended plat Woodview Heights, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13194

Action Requested:

Special Exception--Section 710--Principal Uses Permitted in the Commercial Districts--Request an exception to permit Use Unit 17 in a CS district under the provisions of Section 1680, located at the southeast corner of Mohawk Boulevard and 36th Street North.

Presentation:

The applicant, John D. Harris, 4417 South Lewis, informed this is an old abandoned service station. He submitted six pictures of the subject tract (Exhibit "1-1"). They would like to use the subject tract to sell used cars off of. He described the property surrounding the subject tract and told of other uses in the area. The cars on the lot will all be runnable, movable, and will be clean.

Protestants: None.

Comments and Questions:

Mr. Victor asked the applicant if he would have any objections to the Board limiting this use to automobile sales. Mr. Harris informed they would have no objection to that condition. There will be no automobile repairs at this location.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Special Exception (Section 710--Principal Uses Permitted in the Commercial Districts) to permit Use Unit 17 in a CS district under the provisions of Section 1680, with approval being for the sale of automobiles on the property, on the following described property:

A tract of land in the NW/4 of the NW/4 of Section 20, Township 20 North, Range 13 East, and more particularly described as Beginning on a point on the Southerly right of way line of Mohawk Blvd., said point being 50 feet at right angle to the West line of said Section 20, and 670.24 feet northeasterly along said southerly right of way line of Mohawk Blvd.; thence Southeasterly at right angle a distance of 187.75 feet to a point, thence East parallel with the North line of said Section 20 a distance of 99.8 feet to a point, thence Northwesterly at right angle to the Southerly right of way line of Mohawk Blvd. a distance of 241.4 feet to a point on said right of way line thence Southwesterly along said right of way line a distance of 80 feet to the point of beginning.

Case No. 13196

Action Requested:

Variance--Section 430--Bulk and Area Requirements in a Residential District--Use Unit 1206--Request that the 25 foot street side yard be reduced to 15 feet for Lots 1, 7, 8, and 14, Block 2; Lots 1, 8, 9 and 16, Block 3; Lot 23, Block 4; Lots 6 and 7, Block 5 and Lot 16, Block 7 and that Lot 2, Block 7 have a variable building line on South Louisville Avenue and a 20 foot building line on East 86th Place in an RS-3 district, under the provisions of Section 1670, located north of the northeast corner of 88th and Harvard.

Presentation:

The applicant, Jack C. Cox, 1323 South Baltimore, informed they are proposing to plat this addition. He submitted a plan (Exhibit "J-1") and informed that these variances would not affect anything to the north as far as setbacks of the buildings. He described the lots that would be affected by this application. Mr. Cox informed that none of these lots have been sold, so anyone who buys a lot will know that the building lines are different. The plat will reflect the building lines.

Comments and Questions:

Mr. Jones informed the Technical Advisory Committee has reviewed this request and has recommended approval on all of the applicant's request except for the two items concerning the 20-foot building setback on 86th and the variable building line. They did not review those two items, so they did not have a recommendation on them.

There was discussion about whether the request for a 20 foot building line on East 86th Place was for the whole block or just for specific lots. It was determined that the relief was needed for Lots 6 and 7 of Block 5.

Ms. Purser was concerned about granting two setback variances on Block 7. Mr. Cox informed that a house on this lot could really face either way. Ms. Purser asked Staff if there is a way to word a motion so that the applicant could have his choice of which side he would like a setback on. Mr. Gardner informed they could make a condition that the waiver of the front setback on this corner lot be approved; however, whichever direction the house fronts, it must meet the customary setback. The owner's relief would be for the side of the house, not the front of the house.

Mr. Cox informed he would like this to be approved as submitted with a condition that if there is a 15-foot setback, the house will not be allowed to face that way. That would restrict the driveway depth and would not create a hazard.

Board Action:

On MOTION of VICTOR and SECOND by PURSER, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no

Case No. 13196 (continued)

"abstentions"; Smith, "absent") to approve a Variance (Section 430--Bulk and Area Requirements in a Residential District--Under the provisions of Use Unit 1206) of the 25 foot street side yard to 15 feet for Lots 1, 7, 8, and 14, Block 2; Lots 1, 8, 9, and 16, Block 3; Lot 23, Block 4; Lots 6 and 7, Block 5 and Lot 16, Block 7 and that Lot 2, Block 7 have a variable building line on South Louisville Avenue and a 20 foot building line on East 86th Place in an RS-3 district, under the provisions of Section 1670, per plat submitted and subject to the structures on the 15 foot setback not fronting on that 15 foot setback, on the following described property:

A tract of land lying in the N/2 SW/4 of Section 16, Township 18 North, Range 13 East of the Indian Base and Meridian according to the U.S. Government Survey thereof in the City of Tulsa, Tulsa County, Oklahoma, more particularly described as follows: Beginning at a point on the North line of said N/2 SW/4, said point lying 33.00 feet East of the Northwest corner thereof; thence N89°53'46"E along said North line a distance of 1821.01 feet to a point; thence S13°18'34"E a distance of 125.97 feet to a point; thence S04°44'26"E a distance of 205.70 feet to a point; thence S16°07'53"E a distance of 202.99 feet to a point; thence S13°45'50"W a distance of 140.39 feet to a point on the South line of the N/2 N/2 SW/4; thence S89°53'29"W along said south line a distance of 890.00 feet to a point; thence Due South a distance of 250.00 feet to a point; thence S89°53'29"W a distance of 1000.00 feet to a point lying 33.00 feet East of the West line of said N/2 SW/4; thence Due North a distance of 909.23 feet to the point of Beginning, containing 34.1123 acres more or less.

Case No. 13197

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance 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, located at the northeast corner of East 25th Street and Evanston.

Discussion:

Mr. Jackere informed that the Board has heard this case previously and he asked the applicant to address the first part of his presentation to what makes this case either different than what was previously applied for or what changes in the physical facts of the area have occurred to warrant their returning for the same relief.

Dwight L. Smith, Attorney, 2727 East 21st Street, Suite 200, represented the owners of the subject tract, Mike and Margie Brown, 2347 South Evanston. Mr. Smith gave a brief history of this case. The applicants did appeal the decision of the first meeting to District Court and that case is pending. Mr. Smith gave several

Case No. 13197 (continued)

reasons that this item should be reconsidered by the Board. At the first hearing, it appears that the decision was primarily based on two factors, one of which was a petition that was submitted which was signed by 53 protestants who purported to all be property owners in the neighborhood. Mr. Smith submitted a petition that was signed by 51 people who are in favor of this application, 24 of whom state in the petition that the reason they signed the first petition in protest was because they were under the impression that the purpose for the application at that time was to allow an expansion for an existing business to be run in this RS district (Exhibit "K-1"). That was not the case. At the time of the first application, the applicant was storing some paint in his garage, he had a sign on his truck, and he took business phone calls in his house. That was the extent of the business. That has all changed, and the applicant now has an office elsewhere. This application was first filed, not for a business, but so that a family room could be added to this house. At the previous meeting, the Browns were not represented by an attorney, and they made the mistake of bringing a baby with them who cried and interrupted the presentation. They would now like to present this case to the Board so that a determination can be made on relevant factors.

Mr. Jackere informed the Board needs to determine if this case is the same as the first application, or are there differences in the application and the physical facts. The Board does not want to set a precedent in hearing repeated cases.

There was discussion about differences between this application and the previous application. Mr. Jackere informed the issue in a variance case of a setback is what the hardship is.

Mr. Victor informed that when he made the motion in the previous case he stated his reason for the motion as being that there is no hardship demonstrated.

Mr. Smith informed there are four changes in circumstances present on the applicant's plan: (1) A privacy fence has been erected that will almost completely block this proposed addition from view; (2) a stop sign has been erected at this intersection; (3) the protestants were misled at the first meeting; and (4) there is no longer any business being conducted on the subject tract. Mr. Smith informed there is no Oklahoma case law that precludes this Board from hearing this application.

Mr. Clugston informed he feels there is sufficient grounds for the Board to rehear this case.

The Board members made the decision to hear the merits of the application.

Case No. 13197 (continued)

Presentation:

Mr. Smith presented the plans for the proposed addition to the house on the subject tract (Exhibit "K-2") and explained them. The only change that will be made in the submitted plans is that there will not be a fire place in the addition. All of the houses in this neighborhood predate the Zoning Code. The existing structure is 44 feet from the centerline of the street. Mr. Smith submitted three photographs (Exhibit "K-3") and showed a video tape of the subject tract and the surrounding area. He described the area. Mr. Smith informed that the applicant's architect advised them that the only feasible way to add on to this structure is to do what is proposed. That is their hardship.

Mr. Brown described why they want the proposed addition rather than an addition built out another direction.

Mr. Smith informed that it is their position that to grant this variance would cause no substantial detriment to this neighborhood. It would actually bring this house in closer compliance with the other properties. He described other houses in the area that are this close or closer to the street.

Protestants: None.

Comments and Questions:

Mr. Chappelle asked the applicant if the whole addition would be inside of the fence line, and the applicant informed that it would be. Mr. Chappelle asked Mr. Smith how much of the addition will be visible outside of the fence. Mr. Smith informed that not much of it would be visible. The height of the addition will be the same as the height of the existing house.

There was discussion about other structures in the area that encroach into the required setback.

Mr. Clugston asked Mr. Gardner how approval of this variance would affect the rest of the property along the street. Mr. Gardner informed the Board needs to be satisfied in their minds that other structures in the area are as close or closer to the centerline of the street.

Ms. Purser informed that she does not think the architecture of the structure is a valid hardship. She does think that the applicant has a hardship in the fact that three of the five houses immediately touching this house that are corner lots are as close to the street as the applicant wants to go.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD, and RM

Case No. 13197 (continued)

Districts--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, per plot plan submitted, on the following described property:

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

Case No. 13198

Action Requested:

Special Exception--Section 710--Principal Uses in the Commercial District--Use Unit 1217--Request an exception to permit a mini-storage in a CS district under the provisions of Section 1680, and a Variance--Section 730--Bulk and Area Requirements in the Commercial District--Use Unit 1217--Request a variance of the 10' setback from an abutting R district to 0', located east of the southeast corner of 129th East Avenue and Admiral.

Presentation:

The applicant, Benny Briggs, 6355 B East 41st Street, informed they are proposing to put a small mini-storage on the subject tract. The mini-storage would adjoin I-44 and would be all enclosed by a security fence. There will be an attendant at the business during business hours because this is in conjunction with some other property that they have in the area. There will be no outside storage. He submitted a plot plan (Exhibit "L-1") and described it.

Protestants: None.

Comments and Questions:

There was discussion about the zoning in the area. Mr. Victor asked if it would be a hardship that the "R" district is actually an Interstate. Mr. Gardner informed that there is a basis to grant the use because of the surrounding zoning and land uses.

Mr. Gardner asked how the topography of the subject tract is in relation to the expressway. Mr. Briggs informed that the expressway is much lower at this point. The building will be 9 feet high. One side of the wall will be like a screening fence and will front the interstate.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; none, "absent") to approve a Special Exception (Section 710--Principal Uses Permitted in the Commercial District--under the provisions of Use Unit 1217) to permit a mini-storage in a CS district under the provisions of Section 1680, and a Variance (Section 730--Bulk and Area Requirements in the Commercial District--under the provisions of Use Unit 1217) of the 10' setback from an abutting R district to 0', on the following described property:

Case No. 13198 (continued)

Lot 5, Block 1, Belgray Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13199

Action Requested:

Variance--Section 410--Principal Uses Permitted in a Residential District--Use Unit 1206--Request a variance of the rear yard setback from 20' to 10' to allow an addition to an existing dwelling in an RS-3 district, under the provisions of Section 1670, located south of the southeast corner of 36th Street and 131st East Avenue.

Presentation:

The applicant, Don Maney, 3629 South 131st East Avenue, informed they would like to add a new master bedroom suite onto the existing dwelling. He submitted a plot plan (Exhibit "M-1") and informed they need the variance because their lot is right where the cul-de-sac begins so the lot has an irregular shape. However, where they wanted to add on to the house would require a variance. There is a privacy fence all around the back yard. The addition would be built of the same type of material as the existing structure. The rear property line is at an angle, so part of the addition would be farther than 10 feet from it. The structure is one-story and the roof-line of the addition will be identical to the roof-line of the rest of the structure. The people they talked to in the area did not object to this because they felt that a larger house would increase their property values.

Protestants: None.

Comments and Questions:

Mr. Victor informed that he would consider the shallowness and the irregular shape of the lot a hardship for the addition.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 4-0-0 (Chappelle, Clugston, Purser, Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to approve a Variance (Section 410--Principal Uses Permitted in a Residential District--under the provisions of Use Unit 1206) of the rear yard setback from 20' to 10' to allow an addition to an existing dwelling in an RS-3 district under the provisions of Section 1670, per plot plan, on the following described property:

Lot 20, Block 3, Park Plaza III.

Case No. 13200

Action Requested:

Variance--Section 420.2--Accessory Use Conditions--Use Unit 1206--Request a variance of the side and rear yard setback from 3' to 5' to permit an accessory building in an RS-3 district under the

Case No. 13200 (continued)

provisions of Section 1670, located at the northeast corner of 35th Street and Quincy.

Presentation:

The applicant, Dale Merrell, 1403 East 35th Street, informed he would like to have this variance for a deck that he built. He informed that a building permit has been approved. He submitted a plot plan (Exhibit "N-1") and eight pictures (Exhibit "N-2") and described them. He built the deck right up to the fenceline, and there is drainage between the deck and the fence. This is a second story deck but will not be enclosed. There is an entrance to his garage apartment off of the deck. Mr. Merrell informed that this deck cannot be seen from the street. He submitted a petition signed by 30 property owners within 300 feet of the subject tract (Exhibit "N-3") who are in support of this application.

Comments and Questions:

Ms. Hubbard informed that the applicant applied for a permit to make repair to the original structure. Apparently this was not a repair to the original structure, but an expansion.

There was discussion as to how long the applicant has had a garage apartment and how entrance was gained to the apartment before the deck was built.

Ms. Hubbard described the policies of her department and informed that they were apparently misled by the applicant.

Protestants:

J. D. Thompson, 1407 East 35th Street, informed his property joins the subject tract on the east. He informed he took some pictures around to the neighbors to show them what had been built on the property (Exhibit "N-4"). He submitted a petition opposing this application (Exhibit "N-5") which states that the signers wish to withdraw their support which was shown by their signing a previous petition. The petition stated that the people felt they were misled by the first petition. His petition had the signatures of 16 people. Mr. Thompson described what has occurred on the subject tract. He informed that the deck overlooks their fence and looks right into their backyard. This deck would allow someone easy access to break into his garage apartment from the deck. This deck extends over an easement that is on the subject tract. He feels that this structure is infringing upon his property. The applicant took the old stairway down and completely rebuilt it. Mr. Thompson informed that the applicant's request for relief is not specific, and if it is granted, he can build anything on the property. He described the deck and the subject property. Mr. Thompson informed he has been in touch with the Water and Sewer Department concerning the easement that the deck is built over.

Case No. 13200 (continued)

Comments and Questions:

Ms. Purser informed that the applicant is seeking a variance and he needs to show a hardship.

Interested Parties:

Bob Studebaker, 1341 East 35th Street, informed he lives immediately west of the subject tract. He supports this application. He informed that he signed the applicant's petition and knew exactly what he was signing. He does not believe this was misrepresented at all. He informed that the protestant has a lime-green, two-story garage apartment that is within 20 inches of the property, and the roof line of that building exceeds the property line. Mr. Studebaker told why he is in support of this application--the tenants of the apartment will no longer have to park in front of his house since the entrance to the apartment is now in the rear. The size of the original landing was not safe. Mr. Studebaker drew a sketch on the chalk board to show how this variance will help him.

Additional Protestants:

Annette Josephine Thompson, 1407 East 35th Street, described the residences in the area.

Comments and Questions:

Ms. Purser informed she is unable to find a hardship.

Board Action:

On MOTION of PURSER and SECOND by VICTOR, the Board voted 4-0-0 (Chappelle, Clugston, Purser Victor, "aye"; no "nays"; no "abstentions"; Smith, "absent") to DENY a Variance (Section 420.2--Accessory Use Conditions--Under the provisions of Use Unit 1206) of the side and rear yard setback from 3' to 5" to permit an accessory building in an RS-3 district under the provisions of Section 1670, on the following described property:

The West half of Lot 1, Block 7, Olivers Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13201

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1207--Request a variance of the bulk and area requirements in an RM-1 district under the provisions of Section 1670, located at the southeast corner of 7th Street and 131st East Avenue.

Presentation:

The applicant, Phillip Smith, 6613 South Zuni, Unit 2608, was represented by Joseph McCormick, Suite 1776, One Williams Center. Mr. McCormick informed that Ron Swadley is purchasing this complex and replatting it. He submitted two plats (Exhibits "0-1" and "0-2")--one of them is the plat as it will be recorded. He also

Case No. 13201 (continued)

submitted a copy of the restrictive covenants (Exhibit "0-3"). The other plat is an overlay showing where the buildings are located. This project has been built for several years. There are four new lots created along the east side of the property. These lots do not have buildings on them, and they do not have any present plans to build on them right now. They do anticipate building on them some time in the future. The purpose of the new plat is to divide these duplex buildings into single-buildings so they can finance individual buildings. They need several variances, and their hardship is the fact that the buildings are already in place and they are trying to comply with the Code that is in effect right now. These were built under a different Code. He described the variances that they need. These variances will put them in compliance with what is already on the property. They have been to the Technical Advisory Committee and have received their approval. They also have the conditional approval of the Planning Commission. There will be no physical changes on the property.

Comments and Questions:

Mr. Gardner asked the applicant if there will be two dwelling units on each lot of record, and Mr. McCormick informed that there will be. Mr. Gardner asked the applicant if they intend to sell these as duplexes, and Mr. McCormick informed they are not intending to sell them off right now. One owner is going to buy these and lease them out as units. They want to be able to finance individual buildings.

Mr. Clugston asked what affect approval of this could have on new construction on the four lots. Mr. Jackere asked the applicant if he has a problem with coming back when he is ready to do something with the other lots. Mr. McCormick informed that he would not really object to that. Mr. Jackere informed that he could just exclude those lots from his application.

Mr. Gardner described what is required in an RM-1 district in order to have individual duplex lots. He wanted to know if the applicant addresses specifically variances on lot size, lot width, and frontage on a dedicated street. Mr. McCormick told of the variances they would like on each lot. He informed that the complex is about 10 or 12 years old.

Protestants:

Marcus Fultz, 608 South 132nd East Avenue, informed they live in a new home in the area, and he represents several other families that have just moved into the area. They were not aware of what is going to be built. They found that the owners of the property are wanting to build to the maximum bulk of the land. He was concerned about building that might occur on the four vacant lots. He is concerned that the applicant will put apartments on the lots and that would not be compatible with the area. These lots are prone to flooding, and if they are allowed to build there, they will take the chance of flooding their homes further. Mr. Fultz informed he has no objection

Case No. 13201 (continued)

to the applicant replatting the property for purposes of financing for what exists, but he does not want the four lots developed.

Comments and Questions:

Mr. Jackere informed that none of the lots except the exterior lots have frontage on dedicated streets. Mr. McCormick informed they do not have frontage, but they have a private easement that they have taken care of in the restrictive covenants. Mr. Jackere informed that the Code requires that all of the lots front on a dedicated street unless a waiver is granted for that restriction.

Mr. Jackere informed that the requested variances do not have to be approved for the four vacant lots. The Board would need to condition approval on no construction taking place on the four lots until they see specific plans and have specific requests.

Mr. Gardner informed that approval of this would need to be conditioned upon the applicant filing the plat of record. He described what could be done on the lots.

Board Action:

On MOTION of CLUGSTON and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Clugston, Purser, "aye"; no "nays"; no "abstentions"; Purser, Smith, "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 1207) of the bulk and area requirements in an RM-1 district under the provisions of Section 1670, per subdivision plat filed with the restriction that nothing be built on the four vacant lots until specific plans have been brought in and proper notice has been given, on the following described property:

Lot 1, Block 1, Latty Acres, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13202

Action Requested:

Special Exception--Section 1680.1 (g)--Use Unit 1211--Request an exception to permit off-street parking within a residential district when abutting an office district in an RS-2 district, located at the northeast corner of 22nd Street and Riverside Drive.

Discussion:

Mr. Jackere informed the Board has a policy of granting either side a request for a continuance. On behalf of the City of Tulsa, he requested that this matter be continued until the next regular meeting. There are some legal concerns over the nature of the application and a pending controversy dealing with a similar subject matter in District Court.

The applicant, Ronda Davis, 10 East 3rd Street, informed that they do strenuously object to a continuance because they do not believe that

Case No. 13202 (continued)

the matters pending in District Court bear directly on this matter. They need the parking space that they have requested, and time is of the essence to them.

Mr. Jackere informed the issues do overlap. He explained how the two issues are related. He informed there is also a real concern with respect to the special exception permitting parking abutting an office district. There is no abutting office use that is owned by the applicant in this case. They would like this continuance to allow them time to research the matter.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to continue Case No. 13202 to the July 12, 1984, meeting.

Case No. 13203

Action Requested:

Variance--Section 730--Bulk and Area Requirements in the Commercial District--Use Unit 1210--Request a variance of the 50' setback from the centerline of East 22nd Place to 35' to permit construction of a parking structure in a CS district under the provisions of Section 1680, located at the northeast corner of 22nd Place and Utica.

Presentation:

The applicant, Charles Norman, 909 Kennedy Building, represented Helmerich & Payne, Inc., Utica & 21st. He submitted some plans (Exhibit "P-1") and described the property and the zoning of the property. They are proposing to put a two-level parking structure on the subject tract. He told how high the structure would be above street level from the different sides of the structure. There was 10 feet of OL zoning left on the south which was to assure that there would be a landscaping strip at least that wide along 22nd Place because a parking structure is not permitted in an OL district. At the time of the zoning application, they overlooked the requirement in a CS district that a structure be back one half of the width of the right-of-way plus 25 feet. Their plan shows that the structure will be back one half of the right-of-way plus 15 feet. Their hardship is that if the property were zoned in a parking district, the setback from the property line would be 10 feet--five feet less than what they show on their plan. Mr. Norman described the grade and elevation of the property. There will be a four-foot wall above the parking level which will hide the cars.

Comments and Questions:

There was discussion about the relationship between the proposed four-foot wall and the surrounding buildings.

Case No. 13203 (continued)

Protestants:

Raymond Rosenfeld, 1645 East 24th Place, informed he was a protestant when the property was rezoned. His goal was to protect the residential neighborhood from more intense commercial development. He described the zoning of the property and what has occurred. Mr. Rosenfeld informed he would prefer that the parking deck comply with the City Code in the setback, but if the applicant has a hardship, he could accept this proposed change if the applicant would modify his plans to construct a privacy wall down Utica. He described what is in the area now.

Applicant's Rebuttal:

Mr. Norman informed there is an extremely dense hedge on the Utica side which cannot be seen through. The applicant never intended to replace the existing landscaping material. The only change in the current plan and the plan submitted with the zoning is that the structure is five feet further north than it was at that time. If he was to have the property rezoned to the parking classification, this application would not be necessary. He described the plans to shield the 22nd Street entrance to the parking area.

Comments and Questions:

Mr. Victor informed he cannot agree with what the protestant has said because a screening wall along 22nd Street would be higher than the wall of the parking structure. The lower level of the parking structure is below the grade of 22nd Street. He informed this seems to him to be an unobtrusive parking structure.

Mr. Clugston informed he shares the protestants concerns that this proposal be kept with the theme of Utica Square. He is concerned about the exposed double two-story garage.

Mr. Gardner informed the Board could make approval of this subject to the applicant providing a more detailed landscape plan for the portion of the proposal that does extend above grade on the south end. That could be brought back to the Board before the Building Inspector would issue a permit.

Mr. Victor informed that just down 22nd Street is an existing parking structure that is very similar to what is proposed where a good part of it is below grade. That structure is not obtrusive.

Mr. Clugston informed that the other parking structure that Mr. Victor referred to does not front Utica, a major thoroughfare.

There was discussion about the part of the garage that will be seen from Utica.

Mr. Norman informed he has no objection to submitting a landscape plan for 22nd Street prior to the occupancy of the building.

Case No. 13203 (continued)

Mr. Rosenfeld informed there is no question about the quality of what the applicant has done in the area. Their concern is that they are getting more intense development in the area. The homeowners want to minimize the intrusion into their neighborhood.

Mr. Clugston suggested that the applicant try to get some additional screening along 22nd Street in the area further south of the screening.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to approve a Variance (Section 730--Bulk and Area Requirements in the Commercial District--under the provisions of Use Unit 1210) of the 50' setback from the centerline of East 22nd Place to 35' to permit construction of a parking structure in a CS district under the provisions of Section 1680, subject to the applicant returning with a landscape plan for approval prior to occupancy of the building, and subject to the applicant screening that portion of the building from 22nd Place, on the following described property:

A tract of land in the northwest quarter of the northeast quarter (NW/4, NE/4) of Section 18, T-19-N, R-13-E in the City of Tulsa, Oklahoma, more particularly described as: Beginning at the northwest corner of said NW/4, NE/4, thence south along the west line thereof a distance of 530 feet to the True Point of Beginning; Thence east 230 feet; south 310 feet; east 130 feet; south 150 feet; west 360 feet; and north 460 feet to the point of beginning; containing 2.88 acres, more or less.

Case No. 13204

Action Requested:

Variance--Section 730--Bulk and Area Requirements in the Commercial District--Use Unit 1211--Request a variance of the 50' setback from the centerline of 15th Street to 41.5' in a CH district under the provisions of Section 1670, located at the southeast corner of 15th Street and Rockford.

Presentation:

The applicant, Stephen Olsen, 324 East 3rd, was represented by Casper Jones, 1302 South Fulton. Mr. Jones informed the applicants would like to put a new front on a building on the subject tract. This building will be used for a restaurant. He submitted a plot plan (Exhibit "Q-1") and explained his request. The building will not be extending any further than what it is now. He presented an aerial photograph and described the buildings in the area. Most of them were built in the 1920s and were built on the property line.

Protestants: None.

Case No. 13204 (continued)

Board Action:

On MOTION of CLUGSTON and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to approve a Variance (Section 730--Bulk and Area Requirements in the Commercial District--under the provisions of Use Unit 1211) of the 50' setback from the centerline of 15th Street to 41.5' in a CH district under the provisions of Section 1670, on the following described property:

Lot 16, Block 5, Orcutt Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13205

Action Requested:

Special Exception--Section 910--Principal Uses Permitted in the Industrial Districts--Request an exception to permit Use Units 12 and 19 for a restaurant and billiard parlor in an IL district under the provisions of Section 1680, located at the southwest corner of South 87th East Avenue and East 41st Street.

Discussion:

Mr. Jackere informed that a similar application on similarly located property was before the Board and was denied. The decision was appealed to District Court, and the Court upheld the denial. He informed the Board that they should determine if there is anything different about this case.

Joe McCormick, 1776 One Williams Center, informed that this application is different because they are asking to use the site for the location of a billiard parlor and a restaurant. The last application was only for a billiard parlor. This application provides for more parking for the business. They have explained the changes they are making to the neighbors, and they no longer protest.

Mr. Jackere informed that denial of the previous application was on the basis that the use was not compatible with the industrial uses in the area. He informed that the basis for the Court's decision was primarily that the use of the billiard parlor was not in accordance with the purposes as stated in the IL district as it is found in the Zoning Code. The possibility of the inadequacy of the parking and the possibility of a conflict of hours of operation were also mentioned in Court.

Mr. McCormick informed that at the previous hearing some of the information that was given to the Board concerning the area was incorrect. He submitted a case report from the previous hearing and described the errors on it.

Mr. Jackere informed he has not heard anything different about this application. In his opinion, this application is more intense since they now want a restaurant as an additional principal use.

Case No. 13205 (continued)

There was discussion about the concerns that were brought up at the hearing for the previous case.

Mr. Victor informed he feels this application is worse than the previous application.

Mr. Clugston informed he feels that there is a difference between this case and the previous case. He does not share the concern that this would be incompatible with the area.

Lee Levinson, 35 East 18th, one of the owners of the subject property, described the property and what has occurred on the property.

Mr. Chappelle informed he feels that this is the same case that the Board heard previously. Mr. Victor agreed with him.

Mr. McCormick asked for a two-week continuance to allow him to do some more research and to allow more Board members to be present to vote.

Board Action:

Mr. Victor made a motion to deny the application, not on its merits, but on the basis that it is substantially the same case that the Board has heard before. This motion failed for the lack of a second.

On MOTION of CLUGSTON and SECOND by VICTOR, the Board voted 1-2-0 (Clugston, "aye"; Chappelle, Victor, "nay"; no "abstentions"; Purser, Smith, "absent") to approve a Special Exception (Section 910--Principal Uses Permitted in the Industrial Districts) to permit Use Units 12 and 19 for a restaurant and billiard parlor in an IL district under the provisions of Section 1680, on the following described property:

A tract of land located in the West Half of the Northeast Quarter of the Northwest Quarter of Section 25, Township 19 North, Range 13 East of the Indian Base and Meridian, according to the United States Government Survey thereof, being more particularly described as follows, to-wit: Beginning at the Northwest Quarter of said West Half of the Northeast Quarter of the Northwest Quarter, 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 Southerly right-of-way line of the Broken Arrow Expressway, said point being the POINT OF BEGINNING; thence due South a distance of 225 feet; thence due West a distance of 100 feet; thence due South a distance of 80 feet; thence due East a distance of 100 feet; thence due North a distance of 25.33 feet; thence due East a distance of 326.15 feet to a point on the East line of said W/2 NE/4 NW/4; thence due North and along the East line of said W/2 NE/4 NW/4 to its intersection with the Southerly right-of-way line of the Broken Arrow Expressway; thence Northwesterly along

Case No. 13205 (continued)

said right-of-way line a distance of 16.55 feet to a point of curve to the left with a radius of 2811.79 feet, said point beginning 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 to a distance of 317.11 feet to the point of beginning.

This application is denied due to the lack of three affirmative votes which are necessary to approve an application.

Additional Comments:

Mr. Jackere informed that the two "nay" votes on this motion are based on the fact that the case was heard before and this is the same case.

Case No. 13206

Action Requested:

Variance--Section 430.1--Bulk and Area Requirements in the RS, RD, and RM Districts--Use Unit 1206--Request a variance of the setback from the centerline of 35th Street from 60' to 30' to permit an enclosed swimming pool in an RS-1 district under the provisions of Section 1670, located at the northwest corner of East 35th Street and Florence Avenue.

Presentation:

The applicant, Lloyd S. Markind, 525 South Main, informed he is representing the owners of the subject tract. Approval of this variance would result in a 5' building line across the side of the tract. The purpose of the variance is to permit the construction of an enclosed swimming pool structure. He submitted a survey (Exhibit "R-1") and explained it. The existing swimming pool will be filled in and will be rebuilt on the south side of the lot and will be enclosed. This is the only feasible location for an enclosed structure like this; elsewhere the view of the home will be completely impaired--that is their hardship. The pool enclosure was designed to conform with the existing structure. The pool will be enclosed with an existing six-foot privacy fence which will not change. This will probably not affect the adjacent property owners at all. Mr. Markind submitted a plot plan (Exhibit "R-2").

Protestants: None.

Comments and Questions:

Mr. Clugston asked the applicant how much area there is between the pool itself and the wall of the enclosure. Mr. Markind informed he does not know what the exact footages will be from the edge of the pool to the wall of the building. The side of the pool would be more than 5 feet from the property line, but he does not know how far it will be.

Mr. Gardner informed there is a lot of difference between enclosing a swimming pool where there is no setback variance involved and where

Case No. 13206 (continued)

there is a setback variance involved. He described these differences. If the Board would not approve an extension of the house to this setback, then they should not approve this application. If they would allow the house to extend that close to the street, then they would have no trouble with this application. This will be like a regular building.

Mr. Victor felt the hardship that was mention is a self-imposed hardship. Mr. Markind described the architecture of the home.

Mr. Clugston asked how granting a smaller variance would affect the architecture of the house.

Mr. Clugston asked the applicant how far the fence is from the curb, and Mr. Markind informed the fence is practically on the property line--it is about 25 feet from the centerline of the street.

Mr. Victor informed that anything tied in with the house will stick out past the setback line.

Mr. Clugston informed that it appears that the structure just to the north of the subject tract goes right to the street.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to approve a Variance (Section 430.1--Bulk and Area Requirements in the RS, RD and RM districts--under the provisions of Use Unit 1206) of the setback from the centerline of 35th Street from 60' to 30' to permit an enclosed swimming pool in an RS-1 district under the provisions of Section 1670, per drawing submitted due to the irregular shape of the lot and the architecture of the house, on the following described property:

A part of Lot 1, Block 7, of Charlane Estates, Blocks 6, 7, 8, and 9, an Addition to Tulsa, Oklahoma, described as follows, to-wit: BEGINNING at a point on the Southerly line of said Lot 1, said point being 428.81 feet Easterly of the Southwest Corner of Lot 1, as measured along the South line of Lot 1, thence Northeasterly along the Southerly line of Lot 1, for 124.91 feet to a point of curve; thence along a curve to the left for 71.10 feet to a point of tangency; thence Northwesterly along the Easterly line of Lot 1 for 35.4 feet to a point of curve; thence continuing along the Easterly line of Lot 1 for 64.51 feet; thence westerly on a straight line 136.32 feet; thence Southerly on a straight line for 216.16 feet to the point of beginning, according to the Recorded Plat thereof, and known as 3416 South Florence Avenue.

Case No. 13207

Action Requested:

Special Exception--Section 310--Principal Uses Permitted in the Agricultural District--Use Unit 1205--Request an exception to allow a multi-function assembly hall in an AG district under the provisions of Section 1680, and a Variance--Section 1240 (d)--Design Standards for Off-Street Parking--Request a variance of the required all-weather surface for an unenclosed parking area, located west of 81st Street and Wheeling.

Presentation:

The Creek Nation, P.O. Box 580, Okmulgee, requested by letter that this item be withdrawn and that they be refunded their filing fees.

Protestants: None.

Comments and Questions:

Staff informed that all the work has been done on this case. Mr. Victor informed that generally the Board only refunds the Public Hearing Portion of the fee.

Mr. Gardner informed the question that is raised is whose responsibility it is when the Board does not have jurisdiction. The applicant filed the application and then determined later that the Board does not have jurisdiction.

Board Action:

On MOTION of CLUGSTON and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions"; Purser, Smith, "absent") to withdraw Case No. 13207 and to refund the \$25 Public Hearing Fee to the applicant.

OTHER BUSINESS:

Case No. 12390

Action Requested:

Variance--Section 730--Bulk and Area Requirements in Commercial Districts--Request a variance of the building setback requirements from 100' to 85' on 31st Street, located at 3121 South Sheridan.

Presentation:

The applicant requested that this item be continued to the July 12, 1984, meeting.

Protestants: None.

Board Action:

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions";

Case No. 12390 (continued)

Purser, Smith, "absent") to continue Case No. 12390 to the July 12, 1984, meeting.

Case No. 13172

Action Requested:

Consideration to reconsider B.O.A. Case No. 13172 heard on June 14, 1984.

Discussion:

Mr. Jones informed this was a request for a special exception to permit Use Units 12, 13 and 14 in an IL district. The Board denied this case at its last meeting.

Mr. Jackere asked if the applicant wanted this to be reheard at this meeting, and Mr. John Sublett, 1776 One Williams Center, the attorney for the applicant, informed that they would like for it to be heard at this meeting. Mr. Jackere informed the applicant will have to republish and readvertise before this case can be heard again.

Mr. Jackere described why this applicant has the right to come before the Board at this meeting and ask the Board to reconsider his case at the next meeting. If the Board decides to grant the rehearing, it should require notice and advertisement to the surrounding property owners. That is what the Ordinance requires.

Mike Bolick, 6614 East 57th Place, described why he requested this special exception. He told of a similar operation near the subject tract. He asked for these uses because they had been approved for the similar center. What he is asking is very consistent with the development of the area.

Mr. Jackere suggested that the Board continue this item to the next meeting so the members can be sure of why the case was denied.

There was discussion about why this case was denied.

Mr. Gardner informed that the burden is on the applicant to demonstrate to this Board that what he is asking for is an appropriate land use based upon what is in the area. None of that was brought out to this Board at the previous meeting.

Mr. Victor informed he thinks if the applicant came back with some specific uses in Use Units 12, 13, and 14, it would be a different application.

There was discussion about whether this case could be heard again in two weeks.

Board Action:

On MOTION of CLUGSTON and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Clugston, Victor, "aye"; no "nays"; no "abstentions";

Purser, Smith, "absent") to reconsider Case No. 13172 at the July 12, 1984 meeting.

There being no further business, the Chair declared the meeting adjourned at 6:23 p.m.

Date Approved

8-9-84

A handwritten signature in cursive script, appearing to read "Adrian M. Smith", is written over a horizontal line.

Chairman

6.28.84:416(33)

