

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 438  
Thursday, May 2, 1985, 1:00 p.m.  
City Commission Room, Plaza Level  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Chappelle Smith, Chairman Victor	Clugston Purser	Gardner Jones Moore	Jackere, Legal Department Hubbard, Protective Inspections Noe, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, April 30, 1985, at 11:30 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Smith called the meeting to order at 1:00 p.m.

MINUTES:

On MOTION of CHAPPELLE and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE the Minutes of April 18, 1985.

UNFINISHED BUSINESS

Case No. 13525

Action Requested:

Special Exception - Section 910 - Principal uses permitted in the Industrial Districts - Request an exception to permit Use Unit 14, shopping goods and services, in an IL zoned district, located on the NW/c of 42nd Place and Memorial.

Presentation:

The applicant, Wal-Mart Properties Inc., was represented by Attorney Charles Norman, Suite 909, Kennedy Building, Tulsa, Oklahoma. Mr. Norman submitted a plot plan (Exhibit A-1) for a 80,000 sq. ft. store to be located on 11 acres at the corner of 42nd Place and Memorial. The Board was presented with a list of surrounding businesses (Exhibit A-2) and Mr. Norman noted that the general trend along this portion of Memorial is commercial, with the exception of Albert Equipment. Mr. Norman noted that the nearby Edison Discount Store, which is identical in concept to the proposed Wal-Mart Store, is located in an IL zoned district. Several letters from property owners in the vicinity which support the location of the proposed store (Exhibit A-3) were submitted to the Board. Mr. Norman pointed out that he has met with Traffic Engineering and they have no objection to the two points of access on Memorial if they are right turn in and right turn out and that they prefer that part of the traffic from the south use 42nd Place to gain access to the project. He further stated that in his discussion with the Traffic Engineers,

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they made no distinction between commercial type traffic and industrial traffic. A summary of trip generation rates (Exhibit A-4) and a vicinity map (Exhibit A-5) were submitted to the Board.

Comments and Questions:

Mr. Jones presented to the Board a Special Study on the area in question. He stated that the construction of the new Wal-Mart store would generate 5,600 additional trips per day to add to the existing 36,173 trips on Memorial. He pointed out that the staff, from a planning standpoint, would like to keep the commercial traffic flow away from the industrial area. However, the Traffic Engineers are concerned with keeping traffic off Memorial and diverting it to 42nd Place.

Mr. Victor asked if Wal-Mart would have to come before the board again if the property were to be used for other uses, such as adding a restaurant, tire shop, etc. Mr. Jackere pointed out that the application is made under Use Unit 14, and that the approval would limit the applicant to those uses.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no" abstentions; Clugston, Purser "absent") to APPROVE a Special Exception (Principal Uses Permitted in the Industrial Districts - Use Unit 14) to allow the construction of an 80,000 sq. ft. building to be used for retail uses - Use Unit 14; per plot plan; on the following described property:

Lot 1, Block 2, Industrial Equipment Center, Less and Except the Southerly 320.00' of the Westerly 259.21' thereof.

Case No. 13532

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 5' side yard setback to 1' to permit an existing carport in an RS-3 zoned district, located at 2332 North Atlanta Court.

Presentation:

The applicant, Betty Boerstler, 2332 North Atlanta Court, Tulsa, Oklahoma, presented photographs to the Board (Exhibit B-1) of homes three doors down from hers that are falling down and have rubbish in the yards. She pointed out that Mayor Terry Young had spoken to residents of the area about cleaning up the unsightly lots. Ms. Boerstler said that she had paid over three thousand dollars to build her carport and improve her property. She explained that she was unaware that she needed a building permit since the carport is not enclosed. The applicant stated that Mr. Martin, her neighbor, and has been a source of trouble to her since 1981. She

Case No. 13532 (cont'd)

said that he has made untrue accusations and says he owns the property her garage and carport is built on.

Protestants:

Warren Morris, 2532 East 46th Place, Tulsa, Oklahoma, represented Mr. Martin who owns the two acres of land north of the subject property. Mr. Morris pointed out that the issue is whether or not the carport should be moved back to comply with the 5' setback. He further stated that during construction of the carport, Mr. Martin informed Ms. Boerstler that the carport was being built too close to his fence. Mr. Morris submitted photographs (Exhibit B-2) of the existing carport and stated that his client is concerned with water run-off on his property.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1206) to allow a variance of the 5' side yard setback to 1' to permit an existing carport in a RS-3 zoned district; finding that the carport is already in place and that it is not a detriment to the neighborhood; and subject to guttering being installed to divert the run-off onto the applicants own property; on the following described property:

Lot 55, Block 5, Tulsa Heights, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13533

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 10' side yard setback to 0' to allow an existing carport in a RM-1 zoned district, located at 740 North Columbia Avenue.

Presentation:

The applicant, James Blue, 740 North Columbia, Tulsa, Oklahoma, stated that he bought a new car and needed a carport in addition to his garage. He stated that he was not aware that he would need a building permit to construct the carport.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE a Variance (Section 430.1 - Bulk and Area Requirements in the RS, RD and RM Districts - Use Unit 1206) to allow a variance of the 10' side yard setback to 0' to allow an existing carport in a RM zoned district; finding that there are various other buildings setting on the property line in the area; and finding that this use would not be detrimental to the neighborhood; on the following described property:

**Case No. 13533 (cont'd)**

Lot 3, Block 1, Mercer Subdivision, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13536**

**Action Requested:**

Special Exception - Section 710 - Principal Use Permitted in Commercial Districts - Use Unit 1202 - Request an exception to permit a tent to be used for outdoor sales in a CS zoned district.

Variance - Section 1214.3 - Shopping Goods and Services - Request a variance to permit open air storage or display of merchandise offered for sale within 300' of an abutting residential district.

**Presentation:**

The applicant, K-Mart Corporation, 7030 South Memorial, was not present.

**Comments and Questions:**

Mr. Jones stated that he has written a letter and made numerous phone calls to the applicant requesting an appearance at the Board Meeting, May 2, 1985. The applicant also failed to appear at the previous meeting of April 19, 1985. Mr. Jackere pointed out that Code Enforcement would need to investigate this matter.

**Board Action:**

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to **DENY** without prejudice a **Special Exception** (Section 710- Principal Uses Permitted in Commercial Districts - Use Unit 1202) to permit a tent to be used for outdoor sales in a CS zoned district; and a **Variance** (Section 1214.3 - Shopping Goods and Services) to permit open air storage or display of merchandise offered for sale within 300' of an abutting residential district; on the following described property:

Lot 1, Block 1, Clark Plaza 3rd, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**NEW APPLICATIONS**

**Case No. 13544**

**Action Requested:**

Special Exception - Section 420 - Accessory Uses in Residential Districts - Use Unit 1206 - Request an exception for a home occupation to permit a beauty shop in an RS-3 zoned district, located at 4416 East 24th Street.

**Presentation:**

The applicant, Teresa Marshall, 4416 East 24th Street, Tulsa, Oklahoma, explained to the Board that she would like to have her own business in her home. Ms. Marshall pointed out that there is adequate parking in the driveway for the amount of customers she expects to have. Since she owns the property, the applicant said that she felt that a business in the home would be suitable for her needs.

Case No. 13544 (cont'd)

Comments and Questions:

Mr. Victor pointed out that a sign would not be permitted and asked how many customers would visit the shop each day. Ms. Marshall answered that she would have approximately eight patrons each day and that the shop would be open Tuesday through Saturday.

Mr. Smith explained that the exterior of the house could not be altered and that there could be no visible evidence that a business is in operation. Ms. Marshall stated that she does not plan to change the appearance of the house.

Protestants:

Pat Anderson, 4424 East 24th, Tulsa, Oklahoma, pointed out that the neighborhood is overwhelmed by traffic and asked that the Board deny the addition of a business in the area.

Rose Marie Barrett, 2329 South Toledo, Tulsa, Oklahoma, presented the Board with a petition of protestants (Exhibit C-1). Ms. Barrett stated that she has lived in the neighborhood for nine years and has found that the IPE Building has caused a major traffic problem without the locating of businesses in the area. Ms. Barrett pointed out that she had previously lived on a street where a beauty shop was in operation and that parking and traffic was definitely an issue.

Johnnie Teener, 2408 South Sandusky, Tulsa, Oklahoma, pointed out that the house in question has been leased for one year and asked how she can qualify for the home occupation since she does not occupy the property.

Flossie Vandever, 4415 East 24th, Tulsa, Oklahoma, stated that she lives directly across from the property in question and is concerned that cars parked in the street will block her driveway.

Ben Baker, 2313 South Toledo, Tulsa, Oklahoma, pointed out to the Board that a business of this nature would intrude into a very stable neighborhood with a commercial enterprise.

Margaret Flannigan, 4630 South Toledo, Tulsa, Oklahoma, noted that if one business gets into a neighborhood everyone wants to start a business and asked that the operation of a beauty shop be denied.

Applicant's Rebuttal:

Ms. Marshall stated that she leased the house because she did not want to have financial problems. She said that she would not attempt to open a shop until the lease had expired.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to DENY a Special Exception (Section 420 - Accessory Uses in Residential Districts - Use Unit 1206) for a

Case No. 13544 (cont'd)

home occupation to permit the location of a beauty shop in an RS-3 zoned district; on the following described property:

Lot 1, Block 13, of Blocks 13-17, Ridgeview Addition Extended, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 13545

Action Requested:

Special Exception - Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1202/11 - Request an exception to permit a satellite dish to be used with an existing insurance office in an OL zoned district, located at 4412 South Harvard.

Presentation:

The applicant, Ron Leding, 4412 South Harvard, Tulsa, Oklahoma, submitted satellite mounting instructions (Exhibit D-1) to the Board. Mr. Leding stated that the insurance company would like permission to install a satellite dish to complete a computer link with the home office in Los Angeles, California. He pointed out that the dish is 6' by 3½' in size and could be installed on the roof with a parapet or behind the building where it would be concealed by foliage.

Comments and Questions:

Mr. Jones informed that Farmers Insurance will be completely computerized in all of their offices within six months and every office will have a proposed satellite dish. He further pointed out that over fifty agents have already contacted his office to inquire about the dish. He noted that other codes are being studied at this time, with the ultimate probability of amending our present code.

Mr. Jackere informed that the satellite may be an accessory use to the principal use and that the applicant may not need the relief.

Ms. Noe stated that the office districts have been asked to channel their requests through the Board due to the nature of the satellite issue. It may be used for things other than TV purposes and until the trend is determined they should be heard by the Board.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE a Special Exception (Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1202/11) to permit a satellite dish to be used with an existing insurance office in an OL zoned district; finding that the use of the equipment would not be injurious to the area and does not violate the spirit and intent of the Code; subject to ground installation of the satellite, size as described by the applicant, being behind the building; on the following described property:

**Case No. 13545 (cont'd)**

North 100' of Lot 1, Block 2, Villa Grove Park, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13546**

**Action Requested:**

Variance - Section 320 - Accessory Uses in the Agriculture District.  
Use Unit 1205 - Request a variance to permit a 97 sq. ft. accessory sign in an AG zoned district, located at 6636 South Mingo.

**Presentation:**

The applicant, Union School District, was represented by Douglas Mann, 525 South Main, Tulsa, Oklahoma. He explained that the Union School District has been given a 97 sq. ft. sign by the Coca Cola Company to be used for advertising school activities and other events of a community nature. Mr. Mann submitted a plot plan (Exhibit E-1) and photographs (Exhibit E-2) to the Board. The lighted sign has a value of \$45,000 and is 15' high and 19' long, with a small Coke advertisement in the corner.

**Board Action:**

On MOTION of VICTOR and SECOND by CLUGSTON, the Board voted 3-0-0 (Clugston, Smith, Victor, "aye"; no "nays"; no "abstentions"; Chappelle, Purser, "absent") to **APPROVE** a Variance - Section 320 - Accessory Uses in the Agriculture District - Use Unit 1205 - Request a variance to permit a 97 sq. ft. accessory sign in an AG zoned district; finding that the size of the lot is the hardship for granting a variance; per plans submitted; on the following described property:

NE/4 SE/4 of Section 1, T-18-N, R-13-E, N, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13547**

**Action Requested:**

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request an exception to permit a church and related activities in a RS-2 zoned district, located on the SE/c of 135th East Avenue and 12th Street.

**Presentation:**

The applicant, Tulsa Gospel Chapel, was represented by Phil Moffett, 3531 South Richmond, who presented the Board with a map of the area (Exhibit F-1). Mr. Moffett submitted a site plan (Exhibit F-2) for the proposed building and explained that the five acre tract bounds 135th East Avenue and is approximately one block away from 11th Street which is a major arterial. He explained that the land has all utilities except for a sewer. Mr. Moffett pointed out that he had met with the Hydrology Department and they had indicated that a detention pond may be required. A petition (Exhibit F-3) in favor of the church was presented by Mr. Moffett. The proposed facility is to

Case No. 13547 (cont'd)

be a two-story structure with approximately 7,000 sq.ft. of floor space.

Comments and Questions:

Mr. Victor asked what the exterior material of the church would be and Mr. Moffet answered that the siding would be similar to that of the houses in the neighborhood, probably brick and wood.

There was discussion on parking in front of the building and Ms. Hubbard pointed out that no parking would be permitted in the front yard.

Protestants:

Mr. Garland Crow, who lives in the neighborhood, was represented by Attorney Ronald Hignight, 324 South Main, Tulsa, Oklahoma. Mr. Hignight pointed out that his client is concerned about inadequate drainage in the area and stated that the residents of the neighborhood are unable to use their bathroom facilities after heavy rains. It was further pointed out that Mr. Crow has no objection to the construction of a church in the area, but fears it would have an adverse effect on the sanitation system. Mr. Hignight noted that he had consulted with the Health Department in 1984 and at that time they informed him that there would be no approvals for building in the area because of poor percolation.

Nancy Watson, 1138 South 135th East Avenue, Tulsa, Oklahoma, stated that she lives directly across from the proposed church. Ms. Watson told the Board that she has had water in her house three times and although she has no objection to a church in the area, she is concerned that additional construction in the area might contribute to the water problem.

Comments and Questions:

Mr. Victor pointed out that a church building is subject to a plat and would have to be approved by several agencies.

Mr. Jones stated that the church would be under Use Unit 5 and if approved, would be subject to a plat and the hydrology and health aspect would be addressed at that time.

Applicant's Rebuttal:

Mr. Moffett told the Board that the soil conditions vary dramatically in the area, but assured the Board that the church would comply with whatever is required.

Mr. Smith asked Mr. Moffett how many members are in the congregation. Mr. Moffett stated that there are approximately 80 members in the church at this time.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE a Special Exception



**Case No. 13547 (cont'd)**

(Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to permit a church and related activities in a RS-2 zoned district; finding that the use of the building is in harmony with the neighborhood and the spirit and intent of the Code; subject to final site plan being submitted to the Board; and subject to a subdivision plat; on the following described property:

Lots 1, 2, 7, & 8, Block 1, Romoland, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13548**

**Action Requested:**

Variance - Section 730 - Bulk and Area Requires in the Commercial Districts - Use Unit 1212 - Request a variance of the 100' setback from the centerline of 31st Street to 94' to permit construction of a building in a CS zoned district.

Variance - Section 1212.4 - Off-street Parking and Loading Requirements - Request a variance of the required 54 parking spaces to 16 spaces.

Variance - Section 1350(d) - Design Standards for Off-street Loading Areas - Request a variance of the 10' access drive to 5', located on the SW/c of 31st Street and Winston.

**Presentation:**

The applicant, Glen Gibson, was represented by Kenneth Burks, 8607 East 63rd Street, Tulsa, Oklahoma, who presented the Board with a plot plan (Exhibit G-1). Mr. Burks informed that it would be a hardship to the owners if the building size had to be reduced to comply with the setback. The proposed structure will have 5700 sq. ft. of floor space with an 850' area reserved for leasing and the remainder to be used for a restaurant. According to Mr. Burks, a number of the buildings along 31st Street are over the setback; such as, the Fire Station at 31st and Urbana, the Phillips Station and the Rapid Muffler, which is west of the property in question.

**Comments and Questions:**

There was discussion on the variance of the 10' access drive to 5'. Ms. Hubbard explained that the Code defines parking space as 9' wide and 20' in length, together with a driveway connecting the space with the street or alley and permitting ingress and egress. He only has a 5' driveway on each lot and there is no way of entering without getting on adjoining property. She pointed out that 10' is needed to accommodate an automobile.

Mr. Victor inquired as to the seating capacity of the restaurant and where the customers would park. Mr. Burks informed that the building would seat approximately 100 people and since off-street parking has been approved on 31st Place, a tie contract between the two lots would supply the additional spaces needed.

**Case No. 13548 (cont'd)**

Mr. Gardner informed that if Kay's Restaurant were moved into the new building and not reopened, the spaces formerly used by that business could be used by the proposed new restaurant.

Mr. Smith asked how many of the lots are owned by Mr. Gibson. Mr. Burks informed that the applicant owns all of the property surrounding the restaurant site, which includes all the frontage on Winston down to 31st Place, Lots 1, 2, 3, 4, 5, 11 & 12 of Block 2. Mr. Smith pointed out the necessity of a tie contract on three of the lots to acquire the needed 54 parking spaces for the cafe.

Mr. Jackere pointed out that in the event of a tie contract, none of the three properties could be separately mortgaged, disposed of, or otherwise encumbered.

**Board Action:**

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to **APPROVE** a **Variance** (Section 730 - Bulk and Area Requirements in the Commercial Districts - Use Unit 1212) of the 100' setback from the centerline of 31st Street to 94' to permit construction of a building in a CS zoned district; and a **Variance** (Section 1212.4 - Off-street Parking and Loading Requirements) of the required 54 parking spaces to 16 spaces; and a **Variance** (Section 1350(d) - Design Standards for Off-street Loading Areas) of the 10' access drive to 5'; finding a hardship imposed by surrounding encroachments; subject to the execution of a tie contract on the property with the proposed building, the lot with the existing building directly west of proposed building and the lot south of the existing building; per plot plan; on the following described property:

Lot 1 and N 28' of Lot 2, Block 2, Lots 4, 11, & 12, Blk 2, Conway Park, an addition to Tulsa, Tulsa County, Oklahoma.

**Case No. 13549**

**Action Requested:**

Variance - Section 207 - Required Street Frontage - Use Unit 1206 - Request a variance of the 30' required street frontage on a public street to 0' to permit a private street in an AG zoned district, located west of the SW/c of 114th Street and Winston.

**Presentation:**

The applicant, Dr. and Mrs. Shaddock, was represented by Wayne Alberty, 5110 South Yale, Tulsa, Oklahoma, who submitted a plot plan (Exhibit H-1). Mr. Alberty pointed out that the area is sparsely developed and contains very large homes. The applicant has recently purchased 13 acres to the south of their present home in order to preserve the character of the area. Mr. Alberty pointed out that there is presently a 30' private roadway easement, which has been

**Case No. 13549 (cont'd)**

modified to avoid some of the very large trees. There are pending sales on three of the wooded lots and the new road is necessary to reach the interior portion of the property.

**Board Action:**

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to **APPROVE** a Variance (Section 207 - Required Street Frontage - Use Unit 1206) of the 30' required street frontage on a public street to 0' to permit a private street in a AG zoned district; finding a hardship imposed by the size of the lot and the fact that without relief the applicant has no access to two of his lots, and that a private street would be consistent with development in the area; per plot plan; on the following described property:

A tract of land lying in the SW/4 of the NE/4 of Section 33, Township 18 North, Range 13 East of the Indian Base Meridian, Tulsa County, Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows: Beginning at the Southeast Corner of said SW/4 of NE/4, the same being the Southwest Corner of Country Squire Estates, an Addition in Tulsa County, Oklahoma, according to the Recorded Plat thereof; thence South  $89^{\circ}59'00''$  West along the South line of said SW/4 of NE/4 a distance of 812.06 feet to a point; thence North  $00^{\circ}02'28''$  West a distance of 643.38 feet to a point, said point being the South line of Whit-Acres, an Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the Recorded Plat thereof; thence North  $89^{\circ}59'03''$  East along the South line of said Whit-Acres a distance of 317.37 feet to the Southeast Corner of said Whit-Acres; thence North  $00^{\circ}00'27''$  West along the East line of said Whit-Acres a distance of 100.27 feet to a point; thence North  $89^{\circ}59'33''$  East a distance of 193.92 feet to a point; thence along a curve to the left having a radius of 140.00 feet and a central angle of  $33^{\circ}00'00''$  a distance of 80.63 feet to a point; thence North  $56^{\circ}59'33''$  East a distance of 3.22 feet to a point; thence along a curve to the right having a radius of 140.00 feet and a central angle of  $33^{\circ}00'07''$  a distance of 80.64 feet to a point; thence North  $89^{\circ}59'40''$  East a distance of 145.97 feet to a point on the East line of said SW/4 of NE/4, also being the West line of Country Squire Estates; thence South  $00^{\circ}00'20''$  East along said East line of the SW/4 of the NE/4, the same being the West line of said Country Squire Estates a distance of 790.50 feet to the Point of Beginning.

**Case No. 13550**

**Action Requested:**

Special Exception - Section 420 - Accessory Uses in Residential Districts - Use Unit 1206 - Request an exception to allow a home occupation for a Chiropractic Clinic in a RS-1 zoned district.

**Case No.13550 (cont'd)**

Variance - Section 440.2(a,b) Special Exception Uses in Residential Districts, Requirements - Request a variance to permit one non-family employee and to permit a business sign, located at 3342 East 41st Street.

**Presentation:**

The applicant, Dr. Tom Warren, was represented by Mark Sherman who appeared on behalf of Ron Barber, Attorney for Dr. Warren. The applicant has a contract for purchase on the above noted property and would like permission to live in and operate a Chiropractic Clinic in the home. The present occupant is operating a scientific equipment repair shop under a home occupation exception which was granted in 1978. Mr. Sherman pointed out that the residential area is surrounded by commercial uses. He stated that Dr. Warren would have a part time bookkeeper and a sign (Exhibit I-1) to advertise the clinic. A plot plan (Exhibit I-2) and photographs (Exhibit I-3) were submitted to the Board.

**Comments and Questions:**

Mr. Jackere pointed out that actually the applicant is asking for a Principal Use Variance with a sign and an employee. He noted that a home occupation has no outward appearance of a business operation. Mr. Sherman stated that if the variances are improper, he would ask that the Board consider the application as a home occupation exception.

**Protestants:**

Pauline Hewlett, 4114 South Jamestown, stated that her property adjoins the lot in question. She explained that after the home occupation was granted the yard was graveled and trucks unloaded goods in the back. Ms. Hewlett said the fence is falling down and the yard is not mowed.

Frank Moellers, 4145 South Jamestown, submitted a petition (Exhibit I-4) and a letter of opposition (Exhibit I-5) to the Board. He stated that the appearance of the home changed drastically after the home occupation was permitted; windows were boarded up and a store opened.

John Richards, 4153 South Newhaven Place, asked the Board to deny the home occupation request. Mr. Richards noted that various attempts have been made in the past to change the zoning and add businesses in the area.

Mary Marks, 3717 East 43rd Street, stated that the business operation has had an adverse affect on the neighborhood. She noted that the added traffic is hazardous to the children walking to and from school.

Clint Fuhrmann, 4135 South New Haven Place, informed the Board that he moved in his present home because of the residential nature of the neighborhood and would like to have it preserved.

**Case No. 13550 (cont'd)**

**Applicant's Rebuttal:**

Mr. Sherman stated that he appreciated the concern of the residents of the area; however, he stated that the applicant would make improvements and beautify the lot to make it in harmony with the neighborhood.

**Board Action:**

On MOTION of SMITH and SECOND by VICTOR, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to **DENY** a **Special Exception** (Section 420 - Accessory Uses in Residential Districts - Use Unit 1206) to allow a home occupation for a chiropractic clinic in a RS-1 zoned district; and a **Variance** (Section 440.2(a,b) - Special Exception Uses in Residential Districts, Requirements) to permit one non-family employee and permit a business sign; finding that the applicant did not have a hardship and that the former home occupation was not constructed in the way the Board was told it would be; on the following described property:

E 100' of W 200' of Lots 25 and 26, Block 1, Villa Grove Heights, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13551**

**Action Requested:**

Special Exception - Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1205 - Request an exception to allow a church with related uses and a day care center in an AG zoned district, located east of the NE/c of 21st Street and 148th East Avenue.

**Presentation:**

The applicant, Family Worship Center, was represented by Attorney William Donovan, 5125 East 71st Street, Suite 1205, Tulsa, Oklahoma, who submitted a preliminary plot plan (Exhibit J-1) to the Board. Mr. Donovan explained that the church is in the process of purchasing 52 acres to build a structure to use for worship services and a day care center. He pointed out that the plans would not be finalized until late 1986 or 1987. Presently there is a house on the property which will be used for office space.

**Interested Parties:**

Ken Stewart, 11720 East 21st Street, is the preacher for the Family Worship Center and explained that the church is growing rapidly and has a membership of 800; therefore, they need the property in question to expand. Homeowners in the area have been contacted, and according to Mr. Stewart, are in favor of the project.

Case No. 13551 (cont'd)

Ellery K. Brown, 9334 South 89th East Avenue, architect for the church, stated that the building details are not complete at this time, but that the exterior of the facility will be a light colored masonry.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to APPROVE a Special Exception (Section 310 - Principal Uses Permitted in the Agriculture District - Use Unit 1205) to allow a church with related uses and a day care center in a AG zoned district; finding that the use is in harmony with the area and does not violate the spirit and intent of the Code; subject to the platting process; and subject to the applicants return to the Board when a detailed site plan is available; on the following described property:

The East Half of the Southeast Quarter of the Southwest Quarter (E/2 SE/4 SW/4) of Section 10, and a certain tract of land described as follows: Beginning at a point in the Center of Section 10, Township 19 North, Range 14 East of the Indian Base and Meridian; thence South 160 rods; thence East 30 rods; thence North 53-1/3 rods; thence East 3 rods; thence North 106-2/3 rods; thence West 33 rods to the Place of Beginning, all in Township 19 North, Range 14 East of the Indian Base and Meridian, containing 52 acres, more or less, Tulsa, County, Oklahoma, according to the U.S. Government Survey thereof; Less any right-of-way or easement of record for public utilities or roadway purposes.

Case No. 13552

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Units 1212/1219 - Request an exception to permit a billiard parlor and restaurant in an IL zoned district, located 8548 East 41st Street.

Presentation:

The applicant, Joseph McCormick, after conferring with the protestants, asked the Board to continue the case.

Board Action:

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to CONTINUE Case No. 13552 to May 16, 1985.

**Case No. 13553**

**Action Requested:**

Special Exception- Section 420 - Accessory Uses in Residential Districts - Use Unit 1206 - Request an exception for a home occupation to allow telephones and base radio for a dispatchers office in a RM-1 zoned district, located at 1609 North Madison.

**Presentation:**

The applicant, Jesse Thompson, 1609 North Madison, Tulsa, Oklahoma, requested of the Board that he be allowed to have a base station with a telephone to receive calls and dispatch taxicabs.

**Comments and Questions:**

Mr. Chappelle asked Mr. Thompson if the taxi would ever come to the house. Mr. Thompson informed that it would not.

Mr. Victor asked the applicant to describe the antenna size and where it would be located in relation to the house. Mr. Thompson pointed out that the antenna would be 60' high and would be placed behind his garage.

Mr. Jackere inquired if people would be coming to the house for business purposes and Mr. Thompson answered that there would be no traffic of that nature.

**Board Action:**

On MOTION of VICTOR and SECOND by CHAPPELLE, the Board voted 3-0-0 (Clugston, Smith, Victor, "aye"; no "nays"; no "abstentions"; Chappelle, Purser, "absent") to APPROVE a Special Exception (Section 420 - Accessory Uses in Residential Districts - Use Unit 1206) to allow telephones and base radio for a dispatchers office in a RM-1 zoned district; finding that the use is in harmony with the neighborhood and the spirit and intent of the Code; on the following described property:

Lot 6, Block 6, Booker T. Washington, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 13541**

**Action Requested:**

Diane Noe, Code Enforcement, requested a rehearing of Case No. 13541, which was held on April 18, 1985. Ms. Noe stated that she would like to come before the Board to correct misinformation, submit information withheld and present new information concerning the case. She pointed out that a notice of appeal has been filed in District Court by the City of Tulsa; however, a rehearing is requested in an effort to protect the integrity of this Board and to encourage the people that come before the Board to supply accurate and reliable information.



Case No. 13541 (cont'd)

Comments and Questions:

Mr. Jones informed that if the Board agrees to the hearing, additional notice would have to be given and set up another public hearing.

Mr. Smith pointed out that he and Mr. Victor, who were involved in the decision, would not be present for a rehearing since their tenure on the Board is concluded as of this meeting.

Protestants:

Attorney David Tracy, 1701 South Boston, represented the Tulsa Security Patrol pointed out that not only is this action unprecedented and unwarranted, it could also be unlawful. Mr. Tracy stated that the Municipal Ordinances of Tulsa (Title 42 of the Tulsa Revised Ordinances - Section 1690) specifically states that once a case is on appeal it stays all actions. He pointed out that notice of this meeting was not sent to the applicant, Judy Boswell, but rather to Mr. Gass who is an employee of Tulsa Security Patrol.

Additional Comments:

Mr. Jackere noted that the appeal stays Mr. Gass from using the heliport during the pendency of the appeal, but does not prohibit the Board from rehearing the case. He informed that the standard rule of parliamentary procedure is that the Board that grants a decision has the right to reconsider it at the next meeting. Mr. Jackere stated that the Board has the right to grant and the right to hear again.

Mr. Chappelle stated that he felt the Board should consider the additional information and rehear the matter.

Board Action:

On MOTION of SMITH and SECOND by CHAPPELLE, the Board voted 3-0-0 (Chappelle, Smith, Victor, "aye"; no "nays"; no "abstentions"; Clugston, Purser, "absent") to REHEAR Case No. 13541 at the May 30, 1985 meeting.

There being no further business, the meeting was adjourned at 5:05 p.m.

Date Approved

May 16, 1985  
[Signature]

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