

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 461
Thursday, July 10, 1986, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bradley Chappelle, Chairman White Quarles Smith		Gardner Jones Moore	Linker, Legal Department Hubbard, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor on Wednesday, July 9, 1986, at 10:10 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Chappelle called the meeting to order at 1:03 p.m.

MINUTES:

On MOTION of SMITH, the Board voted 3-0-2 (Quarles, Smith, White, "aye"; no "nays"; Bradley, Chappelle, "abstaining"; none, "absent") to APPROVE the Minutes of June 26, 1986.

UNFINISHED BUSINESS

Case No. 14083

Action Requested:

Use Variance - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1219 - Request a use variance to allow a health spa in an AG zoned district, located at 1 West 81st Street.

Presentation:

The applicant, Bill Satterfield, 1 West 81st Street, Tulsa, Oklahoma, was represented by Randy Rankin, 1515 South Denver, Tulsa, Oklahoma, who stated that the prospective buyer of the subject property is not in the audience and, since she requested the rehearing of the application, asked the Board to continue the case to allow sufficient time to confer with her.

After a vote was taken to continue Case No. 14083 until July 24, Ms. Remington, the prospective buyer, arrived and on motion of Mr. Quarles, the Board voted 5-0-0 to hear the case today.

Case No. 14083 (continued)

Mr. Rankin apologized for the delay and stated that Ms. Remington will explain to the Board what type of business she intends to operate on the subject property.

Donna Remington, 22nd and Elliot, Pryor, Oklahoma, stated that the hours of operation stated in the minutes of the prior hearing restricted her to 9 a.m. to 6 p.m., when actually overnight guests will be staying at the spa.

Comments and Questions:

Ms. Bradley asked if, during the last meeting, Ms. Remington had indicated that any individual could make a reservation and eat at the spa.

Ms. Remington replied that customers could make reservations and eat on the premises.

Ms. Bradley asked Ms. Remington to state the number of guests that will stay at the health spa at any given time and she replied that 7 rooms will be available, which will accommodate a maximum of 24 people.

Ms. White asked Ms. Remington how long the guests will be allowed to stay and she informed that 6 nights will be the longest period of time a guest will remain at the spa.

Ms. Bradley asked if the house will be renovated and Ms. Remington informed that she has employed an architect and that the house will need some repairs.

Ms. Hubbard asked Ms. Remington how many square feet of floor space is in the house and she replied that there is approximately 8500 sq. ft. She informed that, if approved, a Certificate of Occupancy and hard surface parking will be required.

Mr. Smith inquired as to the number of employees for the spa and Ms. Remington stated that there will be a minimum of 8 and a maximum of 30.

Ms. White asked the applicant where the sign will be located and she replied that it will be placed on a brick wall along the entrance to the business.

Protestants:

Nyla Nunley, 201 West 81st Street, Tulsa, Oklahoma, stated that she lives next door to the proposed spa and feels the business is too close to the residences and will devalue her property.

Case No. 14083 (continued)

Board Action:

On MOTION of WHITE, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Use Variance** (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1219) to allow a health spa in an AG zoned district; per guidelines submitted by the applicant; subject to a wall sign being a maximum of 32 sq. ft.; and subject to all lighting being directed away from the residences; finding that a health spa will not be detrimental to the neighborhood, based on the proximity of the airport and other commercial uses nearby, and will be in harmony with the Code and the Comprehensive Plan; on the following described property:

The east 120' of the south 425' of the E/2, SW/4, SW/4 of Section 12, T-18-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14097

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to permit a youth care home in an RM-2 District.

Variance - Section 1205.3(d) - Use Conditions - Request a variance from the 1320' spacing requirement between residential treatment centers, transitional living centers and similar types of facilities, located on the NE/c of 12th Street and Quaker Avenue.

Presentation:

The applicant, Roy Johnsen, 324 Main Mall, Tulsa, Oklahoma, submitted photographs (Exhibit A-2) of the subject property and stated that he is representing Christopher Youth Center. Mr. Johnsen informed that the facility, if approved by this Board, will provide housing and psychiatric counseling for approximately 10 children. He pointed out that many of the lots in the area are used for multi-family purposes, with an apartment complex located to the west, condominiums to the south, a vacant lot to the immediate north and single-family homes extending north from that point. Mr. Johnsen stated that Hillcrest Medical Center is located to the east of the proposed youth center. Mr. Johnsen pointed out that his client has been operating a similar youth home at 7th and Delaware and it has proved to be very acceptable in the neighborhood. Letters from officials of Central High School and Kendall Elementary (Exhibit A-3) supported Mr. Johnsen's appraisal of the behavior of the children living in the center. He informed that Dr. McKee had an application for a youth care home on Country Club Drive which was denied due to other treatment facilities being located in the area. This decision has been appealed to District Court and the outcome is pending. Mr. Johnsen stated that the Code requires a spacing of 1320' between these types of facilities and the present site was found to be 1100' from the Zarro Center which is affiliated with the

Case No. 14097 (continued)

Tulsa Psychiatric Center, Inc. (now Parkside) and is licensed as a part of the hospital. The applicant submitted a letter (Exhibit A-3) from the Tulsa Psychiatric Center which stated that they are not opposed to the location of the youth care home at the proposed location. Mr. Johnsen stated that there is no separation between hospitals in the Code and asked the Board to consider this point. Use Standards and Conditions (Exhibit A-1), which would apply to the subject request if approved, were submitted by the applicant.

Comments and Questions:

Ms. Bradley asked the applicant if this is the same youth care home that was proposed on Country Club Drive and Mr. Johnsen replied that they are one and the same and if allowed to locate at 12th and Quaker, the lawsuit concerning the other location will be dismissed.

Ms. White asked Mr. Johnsen if the Zarrow Center is residential in nature, or an 8 a.m to 5 p.m. operation. He replied that they live on the premises, and the average stay for patients is only 12 weeks, with occupants being 17 years old or older.

Mr. Quarles inquired if the youth home is a non-profit organization and Mr. Johnsen informed that the home in question is licensed by the Oklahoma Department of Human Services and is a profit making privately owned corporation.

Ms. Bradley asked the applicant to state the number of employees that will be on duty at the home and Mr. Johnsen replied that 5 or 6 employees will be working at all times, as 24 hour supervision is necessary.

Ms. Bradley asked if there is adequate parking and Mr. Johnsen stated that the parking will require expansion if the application is approved.

Protestants:

Jack Hamden, a resident of the condominium complex to the south of the subject property, stated that he is representing the Crest Homeowner's Association and asked the Board to deny the request. He pointed out that the neighborhood is in transition and feels that the vacant land in the area will be developed as soon as the economy improves. Mr. Hamden stated that there is a historic preservation district nearby which should be protected.

Harry Bremhorst, 1320 East 12th, Tulsa, Oklahoma, stated that he owns the apartment house across the street from the proposed youth care home. He informed that he is concerned that he will lose some of his tenants if there is a psychiatric center nearby.

Vernon Dudley, a representative of Brawley Rents, located at the corner of 12th and Peoria Avenue, stated that the owner of this company feels that the lot is not large enough to support the type

Case No. 14097 (continued)

of facility that is proposed. Mr. Dudley stated that his company is opposed to the location of a youth care home in the area.

Sam Hicks, 1127 South Quaker, Tulsa, Oklahoma, informed that his family owns 5 houses in the neighborhood and feels that the facility would be detrimental to the area.

Ms. Bradley asked Mr. Hicks if all of his houses are rented and he replied that family members live in 3 houses and the remaining 3 are used for rental property and are occupied at this time.

J. Jacobson, 1136 South Quaker, Tulsa, Oklahoma, stated that he has lived in the neighborhood for 30 years and that the property value in the area has depreciated since the attempt to locate the youth home on the subject tract.

Bob Wallace, 1121 South Quaker, Tulsa, Oklahoma, stated that he is employed as a Tulsa World and Tribune paper carrier and has observed that, on occasion, the patients were out of control at similar centers where he made deliveries. Mr. Wallace asked the Board to deny the request.

Ms. Bradley asked Rich Brierre, INCOG, who was in the audience, to explain the purpose of the 1320' separation between centers such as the one in this application.

Mr. Brierre informed that the policy was adopted to avoid clustering of residential facilities of this type.

Ms. White asked Mr. Brierre to address the status of a special study that is being conducted regarding this particular area, which would prevent clustering of special housing near hospitals.

Mr. Brierre replied that this study has not been completed. He informed that the area in question is from 6th Street to 26th Street, one half mile on either side of Utica. Mr. Brierre stated that there is uniform treatment in the Zoning Code and there are no specific policies that deal with this particular neighborhood as opposed to other neighborhoods.

Ms. White pointed out that there is no restriction on the use of property in a historic district.

Applicant's Rebuttal:

Mr. Johnsen pointed out that a youth care home requires a residential setting and since there are several multi-family dwellings already in the neighborhood, this facility would not detract from the basic character of the area. He stated that the house will not be changed externally.

Case No. 14097 (continued)

Mr. Quarles remarked that these disadvantaged youngsters need care and belong in a stable neighborhood, but because of the potential clustering and the ongoing study involving the hospital area, this may not be the proper place for its location.

Board Action:

On MOTION of BRADLEY, the Board voted 4-1-0 (Bradley, Quarles, Smith, White, "aye"; Chappelle, "nay"; no "abstentions"; none "absent") to **DENY** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to permit a youth care home in an RM-2 District; and to **DENY** a **Variance** (Section 1205.3(d) - Use Conditions) from the 1320' spacing requirement between residential treatment centers, transitional living centers and similar types of facilities; finding that the location of a youth care home at the proposed location would present a potential clustering of treatment centers and that the Code specifications regarding spacing of 1320' between such facilities should be adhered to in this instance; on the following described property:

Lots 27 and 28, Block 3, Orchard Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14099

Action Requested:

Special Exception - Section 440.2 - Special Exception Uses in Residential Districts, Requirements - Home Occupation - Request a special exception to allow a home occupation (use of portion of residences for landscape company office) in an R District.

Variance - Section 240.3 - Use of Yards in R Districts - Request a variance to permit a part of the off-street parking at residence to be surfaced with stone aggregate, located on the NE/c of East 25th Place and South Sheridan Road.

Protestants:

Dan Butchee, 6520 East 24th Street, Tulsa, Oklahoma, asked that this case be continued until the companion case has been heard by the City Commission. A letter (Exhibit B-1) requesting a continuance of Case No. 14099 was submitted. Several letters of protest (Exhibit B-2) were recieved by the Board.

Presentation:

Mr. Norman, who represented the applicant, informed the Board that he is prepared to present the case, but has no objection to the continuance requested by the protestants.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 14099 until August 7, 1986, to allow the City Commission to hear the zoning case.

Case No. 14104

Action Requested:

Variance - Section 1340(e) - Design Standards for Off-Street Parking Areas - Use Unit 1208 - Request a variance to the screening requirement between an RM-2 and RS District on the east border and for 253.89' on the south border.

Variance - Section 1208.4 - Off-Street Parking and Loading Requirements - Request a variance to reduce the required number of parking spaces for retirement village from 189 to 146 (only 124 retirement apartments), located at 22nd Street South and South 82nd East Avenue.

Presentation:

The applicant, Lewis Levy, 5200 South Yale, Tulsa, Oklahoma, was represented by Mike Hackett, 1809 East 15th Street, Tulsa, Oklahoma. He informed that Joe Hamra, owner of the project, and the landscape architect are both present to answer questions from the Board. Mr. Hackett informed that there are single-family residences to the south and some to the east of the project. He stated that the Leisure Village Retirement Community is designed for 124 apartments for elderly citizens, with parking on the east which has been reduced to 93 spaces by the recent change in the Code requirements on May 1, 1986. Mr. Hackett asked the Board to allow the deletion of the fencing requirement on the east and allow screening on only a portion of the south property line, with trees being a natural screen. Photographs (Exhibit C-1) were submitted.

Comments and Questions:

Ms. Bradley asked why the applicant is before the Board for relief of parking if the parking requirement has been met.

Ms. Hubbard pointed out that this Building Permit was issued before the ordinance was amended and therefore, the greater number of parking spaces was required.

Mr. Gardner informed that it is the responsibility of the applicant to demonstrate to the Building Inspector that the project is restricted to elderly housing. He pointed out that the complex could be designed for elderly housing, but not limited to elderly housing which would require additional parking.

Ms. Bradley asked Mr. Hackett if he can verify the fact that the housing will be used strictly for elderly citizens and he replied that Mr. Hamra may be able to answer this question.

Joe Hamra, 2154 South 85th East Avenue, Tulsa, Oklahoma, stated that the project is not federally subsidized, but is completely designed for senior citizens, with special showers, dining room, and a physical therapy area.

Case No. 14104 (continued)

Ms. White asked Mr. Hamra if the facility will be limited to elderly citizens and he answered in the affirmative.

Protestants:

Richard Beeby, 2206 South 83rd East Avenue, Tulsa, Oklahoma, stated that his yard abutts the property in question and the residents of the complex will have a direct view into the back of his home. Mr. Beeby pointed out that a screening fence, as well as shrubs, will be needed to block the view of the complex driveway from his property. He explained that the elimination of the fence would destroy his privacy and asked the Board to deny the variance request.

Ms. Bradley asked Mr. Beeby if he is only concerned with the screening to the south and he answered in the affirmative.

Mr. Jamison, 2211 South 82nd East Avenue, Tulsa, Oklahoma, stated that he is concerned with the parking problem the housing facility will cause in the neighborhood.

Mr. Gardner pointed out that fewer parking spaces are required for elderly housing projects because many of these citizens do not drive. He stated that, if the facility is used for those other than elderly, it will be required to meet the Code requirements of 189 parking spaces.

Mr. Jamison asked for a definition of the word elderly housing and Mr. Linker stated that a project for the elderly is designed with the amenities that are needed for senior citizens.

Ms. White pointed out that, since the projects meets the Code for parking requirements, the parking issue is not before the Board today.

Board Action:

On MOTION of WHITE, the Board voted 5-0-1 (Bradley, Chappelle, Quarles, White, "aye"; no "nays"; Smith, "abstaining"; none "absent") to **APPROVE** a **Variance** (Section 1340(e) - Design Standards for Off-Street Parking Areas - Use Unit 1208) to waive the screening requirement between an RM-2 and RS District on the east border; to **DENY** the request to waive the screening requirement on the south border; and to **WITHDRAW** a **Variance** (Section 1208.4 - Off-Street Parking and Loading Requirements) to reduce the required number of parking spaces for retirement village from 189 to 146 (only 124 retirement apartments); finding that the facility meets the required parking for the retirement village under the revised Code and is no longer in need of this relief; and finding that the RS District to the east is not residences, but a nursing home facility; on the following described property:

Lot 1, Block 1, Leisure Village Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14105

Action Requested:

Variance - Section 208 - One Single Family Dwelling per Lot of Record - Use Unit 1206 - Request a variance to allow 3 existing dwellings (2 garage apartments and a residence) on 1 lot of record (Lots 5 and 6), located on the NW/c of 16th and Newport.

Presentation:

The applicant, William Simmons, 1115 East 16th Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit D-1) and photographs (Exhibit D-2) and explained that he is proposing to remodel and improve an existing building located on the rear of the property at the above stated address. He informed that it was originally a carriage house with living quarters and it will be renovated to use for rental property or for family members. Mr. Simmons pointed out that the lot is actually a double sized lot.

Comments and Questions:

Ms. Bradley asked Mr. Simmons how this application is different from the one previously heard by this Board.

The applicant replied that one or more of the Board members was concerned with the availability of off-street parking and the plans have been changed. Mr. Simmons also informed that he is here because he missed the deadline to appeal the decision at the previous Board meeting.

Mr. Chappelle stated that, in his opinion, the same application is being presented.

Mr. Linker informed that the Board should hear the case if a change of conditions have occurred since the last application.

Mr. Smith asked the applicant if he could show a hardship and he replied that the layout of the buildings is the hardship. He pointed out that the 2 lots could be split except for the fact that the house extends 2' over the boundary of the adjoining lot.

The applicant stated that there are numerous lots in the area that have more than one dwelling and additional parking will be provided, with access on Newport.

Protestants:

Grant Hall, 1202 East 18th Street, Tulsa, Oklahoma, submitted a petition (Exhibit D-3) opposing the application and pointed out that a hardship has not been demonstrated by Mr. Simmons.

Board Action:

On MOTION of WHITE, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** (Section 208 - One Single Family

Case No. 14105 (continued)

Dwelling per Lot of Record - Use Unit 1206) to allow 3 existing dwellings (2 garage apartments and a residence) on 1 lot of record (Lots 5 and 6); finding that this application is essentially the same as the one previously denied by the Board; and finding that a hardship was not demonstrated that would justify the granting of the variance requested; on the following described property:

Lots 5 and 6, Block 16, Amended Plat of Morningside Addition, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 14121

Action Requested:

Minor Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Request a minor variance of the following requirements in the RS-3 District; front yard setback from 50' to 47'; lot width from 60' to 42'; lot area from 6900 sq. ft. to 4926 sq. ft.; livability space from 4000 sq. ft. to 2870 sq. ft.; side yard setback from 5' to 0', all in order to split an existing duplex down the common wall to allow for separate ownership, located at 9766 and 9768 East 33rd Street.

Presentation:

The applicant, Martha Cravens, 2431 East 51st Street, S-704, Tulsa, Oklahoma, represented the owner of the property in question, asked the Board to approve the splitting of a duplex down the common party wall to allow separate ownership. A plat of survey (Exhibit E-1) was submitted.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Minor Variance (Section 430.1 - Bulk and Area Requirements in Residential Districts) of the following requirements in the RS-3 District; front Yard setback from 50' to 47'; lot width from 60' to 42'; lot area from 6900 sq. ft. to 4926 sq. ft.; livability space from 4000 sq. ft. to 2870 sq. ft.; side yard setback from 5' to 0', all in order to split an existing duplex down the common wall to allow for separate ownership; on the following described property; finding that the granting of the minor variance will not be detrimental to the neighborhood and will be in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Lot 2, Block 3, Mingo Valley Estates Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 14111

Action Requested:

Interpretation - Section 1660 - Request Interpretation of measured distance from business to church. Applicant shows 558'.

ALTERNATIVELY:

Variance - Section 750.2 - Prohibition - Request a variance of required 500' setback from a church for a sexually oriented business.

IN ADDITION:

Variance - Section 750.2 - Prohibition - Request a variance to permit a sexually oriented business within 300' (measured 193') of a nonarterial street providing access to an R District.

Variance - Section 750.2 - Prohibition - Request a variance of setback from 1000' to 518' of another sexually oriented business.

Variance - Section 750.2 - Prohibition - Request a variance to permit business within 300' of an R District, located at 3819 South Peoria.

Presentation:

The applicant, Attorney Ken Cunningham, 3010 South Harvard, Suite 200, Tulsa, Oklahoma, stated that Lady Godiva is not a totally nude bar, but does satisfy the City's definition of a sexually oriented business. He informed that the dancers do appear in scanty clothing. Mr. Cunningham explained that the buildings from 38th Street to 39th Street are vacant and the club sets 180' off Peoria, with no access other than from Peoria. He stated that there is an 8' screening fence separating the club from the residential area to the east. Mr. Cunningham pointed out that the bar that was previously in operation on the site had very loud music, but there have been no complaints of noise concerning the present business. He stated that the bar has very high-class clientele and asked the Board to grant the variances requested.

Comments and Questions:

Ms. Bradley asked the applicant how long the club has been in operation and he replied that it has been at this location approximately 3 or 4 months.

Mr. Smith asked Mr. Cunningham if the entire block is in this application and he answered that it does include the block, but approval for only the 4,000 sq. ft. club will be acceptable.

Ms. White asked the applicant to address the hardship for the variance requests.

Mr. Cunningham stated that the club, Night Moves, has been ordered to close by August 1, 1986. He informed that the Lady Godiva Club

Case No. 14111 (continued)

Is approximately 440' from the church, but much farther from the front door. He pointed out that it is difficult for the leaseholder to rent the buildings and asked the Board to approve the application.

Mr. Chappelle inquired as to the days and hours of operation for the club and he replied that it will be open 6 days each week, 2 p.m. to 2 a.m.

Mr. Linker advised that the variance of setback from another sexually oriented business will not be applicable in this case, since Night Moves Club has been ordered to close. Mr. Linker also pointed out that, in measuring from the bar to the nearby church, measurements should be taken in a straight line from one structure to the other.

Mr. Gardner informed that the correct measurement from the club to the church to the north is 380'. (The Church of Christ building to the west is 350' removed.)

Protestants:

Mr. Chappelle stated that a letter of protest (Exhibit F-1) was received from the Shannonwood Park Homeowner's Association.

Gerald Rye, 1336-D East 38th Street, Tulsa, Oklahoma, stated that he represents the residents of Shannonwood Park which is a condominium project directly behind the Lady Godiva Club. He informed that there is a walkway which gives access to the area where the club is located and their clients are parking in the condominium parking lot. He pointed out that these clients leave broken bottles and trash on the property and instances of vandalism have been reported.

Steve Curley, 2022 North Maybelle, 2022 North Maybelle, Tulsa, Oklahoma, stated that he is a member of the Brookside Church of Christ and presented a petition of protest (Exhibit F-2) signed by 46 members of that congregation. Mr. Curley informed that the club in question is directly in front and in full view and is too close to the church building. He stated that, in his opinion, the spacing requirements of the Code should be upheld.

There were numerous protestants in the audience (Exhibit F-2).

Board Action:

On MOTION of WHITE, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to make an INTERPRETATION (Section 1660 - Request Interpretation of measured distance from business to church) that a measurement is taken in a straight line from the nearest portion of one structure to the nearest portion of the other structure, which in this case, measures a distance of 350' from the nearest church, and not 558' as indicated by the applicant; to DENY a Variance (Section 750.2 - Prohibition) of required 500' setback from a

Case No. 14111 (continued)

church for a sexually oriented business; to **DENY** a **Variance** (Section 750.2 - Prohibition) to permit a sexually oriented business within 300' (measured 193') of a nonarterial street providing access to an R District; to **WITHDRAW** a **Variance** (Section 750.2 - Prohibition) of setback from 1000' to 518' of another sexually oriented business; and to **DENY** a **Variance** (Section 750.2 - Prohibition) to permit business within 300' of an R District; finding that the variance request for the setback from another sexually oriented business is no longer needed since the business in question has been ordered to close on August 1, 1986; and finding that a hardship was not demonstrated that would justify the granting of the remaining variances; on the following described property:

Lot 1, Block 2, South Brookside Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14115

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Requests a variance of the 50' setback from the centerline of 3rd Place to 36.5' to allow construction of a carport, located at 8948 East 3rd Place.

Presentation:

The applicant, Fred Twist, 8948 East 3rd Place, Tulsa, Oklahoma, who submitted photographs (Exhibit G-1) and a plat of survey (Exhibit G-2), explained that he has a sloping driveway which gets slick during the winter months. He stated that the carport is needed in order that his wife, who has a bad back, can have a covered area to get in and out of her car.

Comments and Questions:

Mr. Chappelle asked the applicant if there are other carports in the area and he replied that there is one next door and several down the street.

Comments and Questions:

Ms. Bradley asked the applicant if the carport is under construction at this time and he replied that he hired a contractor to build it and he failed to get a Building Permit. He informed that construction was ordered to stop when the carport was approximately 85% complete.

Ms. Hubbard asked the name of the contractor and the applicant informed that he contracted with Robert Wilkey to build the carport.

Board Action:

On MOTION of BRADLEY, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area

Case No. 14115 (continued)

Requirements in Residential Districts) of the 50' setback from the centerline of 3rd Place to 36.5' to allow construction of a carport; per plat of survey; finding that there are numerous carports in the area and finding a hardship imposed on the applicant by the slope of the land and the narrow shape of the lot; on the following described property:

Lot 3, Block 8, Meadowood Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14116

Action Requested:

Appeal from Code Enforcement (Section 1650) - Use Unit 1217 - Appeal the decision of Code Enforcement for parking new and used vehicles for sales claiming that previous Board approval allowed off-street parking for customers and employees and denies the use of property for automobile sales.

Use Variance - Section 410/610 - Principal Uses Permitted in Residential/Office Districts Use Unit 1223 - Request a use variance to permit the storage of new and used automobiles and trucks along with off-street parking of employee and customer vehicles in an RM-2 and an OL zoned district, located on the south side of East 10th Street between Atlanta and Birmingham Avenue.

Presentation:

The applicant, Charles Norman, Suite 909, Kennedy Building, Tulsa, Oklahoma, who submitted a copy of a citation and photographs (Exhibit H-2), stated that he is representing D.B. Wilkerson, Sr. and Wilkerson Chevrolet. He informed that his client has been cited by the Building Inspector for being in violation of the Zoning Code for parking new and used vehicles for sale on the 10th Street side of the dealership property. He pointed out that all of the property along 11th Street is zoned CH and the property to the north is zoned RM-2 except for OL zoning on a portion of the property on the south side of 10th Street. He informed that Mr. Wilkerson bought the property on 11th Street in 1958 and constructed a dealership at this location and in its present form. He acquired at the same time the first 230' west of Birmingham Avenue, which is in an OL District, and has been used continuously for parking of vehicles of employees, customers and new cars being stored. Mr. Wilkerson applied for an exception in 1967 to permit off-street parking in the lots that were zoned for multi-family dwellings and it has been used continuously for the same use as the other lots. Mr. Norman stated that the approval was given by the Board of Adjustment, subject to the lots having asphalt surfacing, chain link fencing, and no openings on 10th Street. He informed that his client has complied with these requirements and has also employed a guard to police the area from 8 p.m. to 7 a.m. Mr. Norman stated that there is a lawful nonconforming use for all of the kinds of parking that have been conducted on the property since 1958.

Case No. 14116 (continued)

Comments and Questions:

Mr. Gardner informed the Board that screening is not required if the appeal is approved, or if the variance requested is approved screening is required and a lattice will be required for the chain link fence that is in place. If it is determined that the storage of new automobiles is an accessory and no different than any other type of parking, a screen will not be required.

Mr. Norman pointed out that the old Code did not make a distinction between employees cars and any other type of parking.

Ms. White commented that she observed a lot of trash, old tires and old gas tanks on the lot.

Mr. Norman replied that this was not mentioned in the terms of the citation, but if it is a violation, Mr. Wilkerson will correct it.

Protestants:

Fran Pace, District 4 Chairman, submitted a petition (Exhibit H-1) in opposition to the application and informed that she asked Code Enforcement to investigate the property. She stated that her complaint dealt with the storing of new cars on the lot without a screening fence and, in her opinion, Mr. Norman has not addressed the subject of the screening fence. Ms. Pace pointed out that the Board previously ruled on a similar case concerning Cox Motor Company and they were required to provide solid screening. She stated a concerned that Mr. Norman is attempting to bypass the screening.

Mr. Gardner informed that the applicant has advertised for a variance to continue the parking just as it has been operating, without a screening fence. He pointed out that the Board, if inclined to approve the application, can grant the variance to allow the continued parking use and make a condition that a screening fence be installed or approve the application to allow the parking to continue just as it has been in the past. Mr. Gardner explained that, if the Board finds that the use is nonconforming, a screening fence will not be required.

Mr. Jones informed that the citation issued to Mr. Wilkerson did not address the fencing issue.

Mr. Linker pointed out that Mr. Norman is stating that when permission for parking was first given, there was no distinction between storing and parking, but storage is a much heavier use than parking. He suggested that the Board will have to determine if the parking permission also included storage of vehicles.

Lela Denman, 2547 East 10th Street, Tulsa, Oklahoma, stated that she is the only homeowner in the block and has lived in the neighborhood since 1939. She stated that there is a glare from the vehicles parked on the lot and there is trash cluttering the area.

Case No. 14116 (continued)

Board Action:

On MOTION of SMITH, the Board voted 4-1-0 (Chappelle, Quarles, Smith, White, "aye"; Bradley, "nay"; no "abstentions"; none "absent") to **REVERSE** the decision of Code Enforcement (Section 1650) - Use Unit 1217) restricting the parking of new and used vehicles for sale; finding that the parking of vehicles belonging to employees and customers and the storage of new vehicles for sale, to be a lawful nonconforming use; and to **WITHDRAW** a **Use Variance** (Section 410/610 - Principal Uses Permitted in Residential/Office Districts Use Unit 1223) to permit the storage of new and used automobiles and trucks along with off-street parking of employee and customer vehicles in an RM-2 and an OL zoned district; determining that the use was found by the Board to be nonconforming and the applicant is no longer in need of this relief; on the following described property:

Lots 1, 3, 4, 5, 6, and the E/2 of Lot 2, Block 5, Highlands Addition, City of Tulsa, Oklahoma.

Case No. 14117

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to operate an auto repair shop to restore antique cars in a CS District.

Variance - Section 1217.3 - Automotive, Use Conditions - Request a variance to waive screening requirement on lot line in common with R District on the west, located at 224 South 49th West Avenue.

Presentation:

The applicant, Charles Straight, 224 South 49th West Avenue, Tulsa, Oklahoma, was not present and had not paid the legal news fee.

Protestants:

Mr. Chappelle stated that the Board has received a petition with numerous signatures and a letter (Exhibit 1-1) opposing the application. Several protestants were present in the audience. Mr. Jones attempted to contact the applicant by phone and found that he had supplied Staff with a work number and was no longer employed there.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** Case No. 14117 without prejudice.

Case No. 14118

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow a mobile home in an RM-2 District.

Variance - Section 440.6 - Special Exception Uses in Residential Districts, Requirements - Request a variance to waive the 1 year time limit to permanently and waive a removal bond, located at 4949 East 39th Street North.

Presentation:

The applicant, Charles Bell, 3043 West 57th Street, Tulsa, Oklahoma, was represented by Mary Ann Bell, who submitted a location map (Exhibit J-1) and asked permission to move a mobile home on a 2 1/2-acre tract. She stated that a partially burned house will be removed from the property and the mobile home placed on a permanent foundation.

Comments and Questions:

Mr. Chappelle asked Ms. Bell to describe the mobile home and she informed that it is a new 16' by 80' Melody with a shingle roof.

Ms. Bradley inquired if city sewer is available and she replied that a septic system will be installed.

Ms. Bradley asked what is located east of the subject tract and Ms. Bell stated that there is a creek behind the tract.

Mr. Jones stated that Stormwater Management has been sent a copy of the agenda and a Floodplain Determination form and no response has been received from that department.

Mr. Gardner informed that if the applicants mobile home is located in a Zone C it does not require mandatory flood insurance.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow a mobile home in an RM-2 District; **DENY** a **Variance** (Section 440.6 - Special Exception Uses in Residential Districts, Requirements) to waive the 1 year time limit to permanently and waive a removal bond; for a period of 3 years; subject to Health Department approval; finding that the mobile home will be compatible with the area and the granting of the special exception request will not violate the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

West 328' of Block 2, Kennedy Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14119

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of front yard setback in an RS-3 District from 50' to 27' from the centerline of Toledo Place to permit erection of canvas covered driveway canopy, located at 3531 South Toledo Place.

Presentation:

The applicant, Edward Niemi, 3531 South Toledo Place, Tulsa, Oklahoma, was represented by his daughter-in-law, Donna Niemi, who submitted a plot plan (Exhibit K-1). She informed that her father-in-law is asking permission to install a carport to prevent water flow from his neighbors property during heavy rains.

Comments and Questions:

Ms. Bradley asked Ms. Niemi if there are other carports in this block and she replied that there are none on the same block, but some in the area.

Ms. White asked how the carport will obstruct the flow of water and Ms. Niemi stated that her father-in-law explained that the lot slopes and the carport would have to be built up to make it level.

Board Action:

On MOTION of BRADLEY, the Board voted 3-2-0 (Bradley, Smith, White, "aye"; Chappelle, Quarles, "nay"; no "abstentions"; none "absent") to **DENY** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of front yard setback in an RS-3 District from 50' to 27' from the centerline of Toledo Place to permit erection of canvas covered driveway canopy; finding that a hardship was not demonstrated by the applicant that would warrant the granting of the variance requested; on the following described property:

Lot 1, Block 3, Redbud Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14120

Action Requested:

Special Exception - Section 41- - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow a learning center in an RS-2 District, located east of the SE/c of 9th Street and 89th East Avenue.

Presentation:

The applicant, Happiness Is A Learning Center, Inc., was represented by Bill Ashford, 445 South Memorial, Tulsa, Oklahoma, who stated that the center will be for children that need supervision before and after school.

Case No. 14120 (continued)

Comments and Questions:

Ms. Bradley asked the applicant how many children will be enrolled at the center and he informed that there are 40 children enrolled at this time.

Mr. Chappelle Inquired as to the ages of the students and Mr. Ashford replied that they range in age from 5 years to 10 years. He informed that the center will operate 5 days each week, between the hours of 6:30 a.m and 5:30 p.m.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 41- - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow a learning center in an RS-2 District; finding that the learning center will be compatible with the neighborhood and in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Block 19, Clarland Aces Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14122

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1211 - Request a special exception to allow office use in an RM-2 District, located at 1824 South Cincinnati Avenue.

Presentation:

The applicant, Frances Gibbons, 1824 South Cincinnati, Tulsa, Oklahoma, stated that she is a Real Estate Associate representing the owner. She stated that she is listing the home of a friend who has entered the nursing home and has a party that is interested in buying the house for a small office. She stated that the property to the north of the subject property is zoned OL.

Comments and Questions:

Mr. Chappelle asked the applicant what type of offices are being considered and she replied that she has had requests for a CPA and a private detective office.

Mr. Quarles Inquired as to the square footage of the house in question and she stated that it is small and will only accommodate 1 office.

Case No. 14122 (continued)

Ms. Bradley asked if there is sufficient parking and Ms. Gibbons replied that the lot is deep and parking could be arranged on the back portion.

Ms. White pointed out that this area on Cincinnati is very congested and stated a concern with the additional traffic that will be generated by an office.

Protestants:

Grant Hall, 1202 East 18th Street, Tulsa, Oklahoma, stated that he is not opposed to office use in the home, but pointed out that traffic is a problem in the area and asked that the use be specific and generate only a small amount of traffic.

Ms. White stated that she would be amenable to looking at a specific use, but could not support a special exception to allow blanket office use.

Applicant's Rebuttal:

Ms. Gibbons stated that she had requested light office use and feels that the house is suited for a small office that would not require a large amount of parking.

Mr. Gardner asked the applicant how much square footage is in the building and she replied that there is 1143 sq. ft. He informed that 3 parking spaces would be required for the building.

Mr. Smith stated a concern that an interested buyer might think the property has been rezoned if a specific use is not noted.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 14122 until July 24, 1986, to allow the applicant to submit a plot plan and a more specific office use for the property in question.

Case No. 14123

Action Requested:

Variance - Section 1320(d) - Off-Street Parking General Requirements
- Use Unit 1212 - Request a variance to permit part of required off-street parking spaces to be located on a lot other than that containing the use (street right-of-way).

Case No. 14123 (continued)

Variance - Section 280 - Structure Setback From Abutting Streets - Request a variance to permit part of required parking spaces within the designated right-of-way (50' from centerline of Peoria).

ALTERNATIVELY:

Variance - Section 1212.4 - Off-Street Parking Requirements - Request a variance of the required number of parking spaces from 25 to 20, located on the SW/c of 46th Street South and South Peoria Avenue.

Comments and Questions:

Mr. Jones informed that a typographical error has been discovered in the legal description which has been pointed out to the applicant. He stated that the legal reads 'thence last' instead of 'thence east'. The applicant stated that he is aware of the error and elected to proceed with the hearing.

Presentation:

The applicant, Casa Bonita, was represented by Ed Burgess, 6250 LBJ Freeway, Dallas, Texas, who stated that a new restaurant is proposed at the above stated location and that the new building will be constructed behind the setback boundary. Mr. Burgess asked the Board to permit a portion of the required parking to be located within the designated right-of-way and informed that a minimum of 21 parking spaces can be provided on the lot. A plot plan (Exhibit L-1) was submitted.

Comments and Questions:

Ms. Bradley asked if the old restaurant will be removed and Mr. Burgess answered in the affirmative.

Ms. Hubbard informed that the variance request for a part of the parking to be located on a lot other than that containing the use is not needed.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **WITHDRAW** a **Variance** (Section 1320(d) - Off-Street Parking General Requirements - Use Unit 1212) to permit part of required off-street parking spaces to be located on a lot other than that containing the use (street right-of-way); finding that the applicant no longer needs the relief requested; and to **APPROVE** a **Variance** (Section 280 - Structure Setback From Abutting Streets) to permit part of required parking spaces within the designated right-of-way (50' from centerline of Peoria); subject to no parked vehicles overhanging the pedestrian walkway along Peoria; and to **WITHDRAW** a **Variance** (Section 1212.4 - Off-Street Parking Requirements) of the required number of parking spaces from 25 to 20; finding that the applicant is not in need of the relief requested; on the following described property:

Case No. 14123 (continued)

A tract of land located in the City of Tulsa, Tulsa County, State of Oklahoma, said tract being in the SE corner of the Annie May Grant "C" Tract (which is a part of the North Half of the NE Quarter of the SE Quarter of Section 25, Township 19 North, Range 12 East), said tract being more particularly described as follows, to-wit:

Beginning at a point in the center of the Section line on the east side of said Section 25 at the SE corner of the Annie May Grant "C" Tract according to the recorded plat thereof and running thence north in the center of said Section line along the east boundary of said Section 25 a distance of 160 ft.; thence due west and parallel with the south boundary line of said Section 25 a distance of 170'; thence south and parallel with the east boundary line of said Section 25 a distance of 160'; thence east along the south boundary line of said Annie May Grant "C" Tract a distance of 170' to the point of beginning, less and except, street right-of-way for South Peoria Avenue previously deeded therefrom to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 14124

Action Requested:

Special Exception - Section 250.3 - Modification of the Screening Wall or Fence Requirement/Section 1215.3 - Other Trades and Services, Use Conditions - Use Unit 1215 - Request a variance to waive screening requirement along the lot line in common with the R District.

Variance - Section 1340(d) - Design Standards for Off-Street Parking Areas - Request a variance of the all-weather material required for off-street parking, located north of the NE/c of 61st Street and South 107th East Avenue.

Presentation:

The applicant, William Preaus, 2535 East 55th Place, Tulsa, Oklahoma, who submitted a plot plan (Exhibit M-1) and photographs (Exhibit M-2), stated that he and his brother have a landscape and tree service business. He informed that they have recently relocated to an area where there are 3 other landscape companies within a 3 block area and asked the Board to allow the off-street parking lot to be covered with material other than all-weather material. He pointed out that none of the other landscape businesses have hard surface roads and parking. He informed that there are no residences to the north or south of the property in question and asked that the screening requirement be waived.

Comments and Questions:

Mr. Gardner informed that this area is designated by the Comprehensive Plan to become Industrial and if it was zoned IL the

Case No. 14124 (continued)

screening requirement would not be required.

Interested Parties:

Mr. Chappelle stated that the Board received a letter (Exhibit M-3) from Grace Davis, a neighbor of Mr. Preaus, who stated that there is a water problem in the area.

Mr. Preaus informed that Ms. Davis has sublet a portion of her land to a nursery company that does excessive watering which creates a problem. He stated that he has dug a ditch on the south boundary of his property line to prevent the water from flowing onto his lot.

Mr. Quarles asked the applicant if he is a landscape contractor and he answered in the affirmative.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** (Section 250.3 - Modification of the Screening Wall or Fence Requirement/Section 1215.3 - Other Trades and Services, Use Conditions - Use Unit 1215) to waive screening requirement along the lot line in common with the R District; and to **APPROVE** a **Variance** (Section 1340(d) - Design Standards for Off-Street Parking Areas) of the all-weather material required for off-street parking; per plot plan submitted; until such time as residential use develops on the surrounding RS-3 properties; finding that the area has been planned for IL development and there are several landscaping businesses operating in the neighborhood at this time without hard surface parking lots; on the following described property:

Lot 12, Block 1, Golden Valley Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14125

Action Requested:

Special Exception - Section 440.2 - Special Exception Uses in Residential Districts, Requirements - Request a special exception to allow a home occupation for tape duplicating business in an RS-3 zoned district, located on the NW/c of 26th Street and Joplin.

Presentation:

The applicant, Trevor Baldwin, was represented by Leon Whitman, 5905 East 26th Street, Tulsa, Oklahoma, who submitted a plat of survey (Exhibit N-1) and photographs (Exhibit N-3). He pointed out that Mr. Baldwin is doing some construction work for him and is not operating the business. Mr. Whitman informed that most of his tape

Case No. 14125 (continued)

duplicating business is with out of town clients, but some customers coming to his home have been parking on Joplin. He stated that some of the residents in the neighborhood are concerned that he is attempting to rezone the property, which is not the case. Mr. Whitman explained that he would like to move the entrance to the east side of his home to encourage customers to park in the driveway.

Comments and Questions:

Mr. Chappelle asked Mr. Whitman how long he has been operating the tape duplicating business. He replied that he had a business on South Memorial (International Teaching Tapes) which was sold to begin servicing high speed duplicators, which now provides approximately 1/3 of his income. He informed that he has been doing this since 1982.

Mr. Whitman replied that he has no employees except his wife and daughter who live in the home.

Ms. Bradley asked how many customers come to the home each week and he replied that he has 3 or 4 customers each day, with deliveries from UPS twice a week and 1 truck delivery each 3 months.

Ms. White inquired as to the days and hours of operation for the business and Mr. Whitman replied that normally it is open from 9 a.m. to 6 p.m., Monday through Friday.

Mr. Quarles asked the size of the new addition to the house and he informed that it will be approximately 900 sq. ft.

Protestants:

George Collins, 5798 East 26th Street, Tulsa, Oklahoma, submitted a petition (Exhibit N-2) of opposing property owners in the neighborhood and pointed out to the Board that cars are parked on Joplin all during the day. He stated that UPS trucks make frequent visits to the home, as well as freight trucks making periodic deliveries.

Jack Duncan, 5797 East 26th Street, Tulsa, Oklahoma, informed that he lives directly across the street from the business and that Mr. Whitman's customers park in his driveway and on the street.

Interested Parties:

Julian Williams, 5909 East 26th Street, Tulsa, Oklahoma, stated that he lives next door to the Whitmans and the proposed entrance is between his house and theirs. Mr. Williams informed that he does not oppose the home occupation.

Case No. 14125 (continued)

Applicant's Rebuttal:

Mr. Whitman stated that he has talked to the neighbors and, in his opinion, the protest petition was misrepresented to them.

Ms. White asked Mr. Whitman what year he sold his business on Memorial Drive and he replied that he sold it in 1979.

Board Action:

On MOTION of QUARLES, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Special Exception** (Section 440.2 - Special Exception Uses in Residential Districts, Requirements) to allow a home occupation for tape duplicating business in an RS-3 zoned district; finding that the business in question has expanded beyond the intent of a home occupation; and finding that the business is detrimental to the neighborhood and is not in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Lot 31, Block 1, Boman Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14126

Action Requested:

Variance - Section 930 - Bulk and Area Requirements in Industrial Districts - Request a variance from the required setback from the centerline of Pine Street from 100' to 50'.

Special Exception - Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1227 - Request a special exception to expand a nonconforming auto salvage in an IM zoned district, located at 1561 East Pine Street.

Presentation:

The applicant, James Crain, 1561 East Pine Street, Tulsa, Oklahoma, was represented by Carroll Borthick, who explained that the existing salvage business is now operating from a building which is 50' from the centerline of Pine Street and that the owner plans to tear down a portion of the building and replace it with a new addition. He asked the Board to allow the building to remain at the 50' setback. A plot plan (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Gardner pointed out that buildings which were located there before 1970 did not have the same building setbacks that are required today and prior to 1970 auto salvage was permitted in this zoning district by right.

Case No. 14126 (continued)

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** (Section 930 - Bulk and Area Requirements in Industrial Districts) from the required setback from the centerline of Pine Street from 100' to 50'; and to **APPROVE** a **Special Exception** (Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1227) to expand a nonconforming auto salvage in an IM zoned district; per plot plan submitted; finding that the auto salvage has been at the present location for many years and has proved to be compatible with the area and in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Lot 18, Block 2, and Lots 15 -23, Block 3, and the west 44' of Lots 11 - 16 and the west 32' of Lot 10, Block 4, and vacant street, Broadview Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14127

Action Requested:

Appeal - Section 1650 - Appeals from the Building Inspector - Request an appeal from the decision of the Building Inspector for the building permit number 45018 to allow a four-plex and quarters in an RS-3 zoned district, located on the SE/c of 15th Street and Madison Avenue.

Presentation:

The applicant, James Fehrle, 1201 Boston Plaza, Tulsa, Oklahoma, stated that he is representing the protestant Charles Pyle who lives adjacent to the subject property. He informed that his client is in protest of the Issuing of Permit No. 45018 by the Building Inspector. Mr. Fehrle pointed out that the zoning is RS-3 and the homes in the area are large single-family homes, several of which were converted into boarding houses or apartments during the 1930's and 1940's. He informed that the tract is located in the Maplewood Historic District and, at this time, all but 2 of the homes in the neighborhood have been returned to their single-family status. Mr. Fehrle stated that Sue Richardson, owner of the subject property in 1943, received permission from the Board of Adjustment (Exhibit P-1) to convert the dwelling into a 4 unit apartment, plus quarters, but for reasons unknown the conversion was not accomplished. Affidavits substantiating the use of the subject tract as a duplex were submitted (Exhibit P-2). Mr. Fehrle informed that the subsequent owner, Mr. Ray Ward, lived in one of the duplex units until 1982, and then continued to maintain his accounting office on the subject

Case No. 14127 (continued)

tract until his death in 1985. Mr. Fehrle stated that the upper story was known as 1501 South Madison and the lower level was 1004 East 15th Street beginning in 1972. He informed that from the time Mr. Ward moved from the premises in 1982 until his death in 1985, the accounting office was operated in violation of the Home Occupation Guidelines and, in his opinion, the present owner is presently using the separate structure on the property for an office without any authority. Mr. Fehrle informed that the present owner converted the structure to a multi-family dwelling without obtaining a Building Permit for the conversion. He stated that the contractor attempted to mislead the Building Inspector by saying that a four-plex had been in existence since the Board of Adjustment approval in 1943. Mr. Fehrle pointed out that the building was completely refurbished without a Building Permit and has never been used as a four-plex. He asked that the Board bring the property in compliance with the Code, cancel the Building Permit (obtained by misrepresentation), return the dwelling units on the tract from 5 units to 2 units and prohibit the office use for the detached structure.

Comments and Questions:

Mr. Gardner informed that when the permit was given in 1943 for the conversion to a four-plex, it would have been permissible to use the property for a duplex, but the applicant had until 1972 to complete the conversion, which apparently was not done.

Mr. Linker asked Mr. Fehrle if the house has ever been used as a four-plex and he replied that it has not.

Ms. Bradley asked if the home occupation goes with the land use and Mr. Gardner pointed out that, in this case, no one is living on the premises that is officing there; therefore, the office is a principal use and not a home occupation use.

Protestants:

Kenny King, 1302 South Denver, Tulsa, Oklahoma, stated that he is representing the owner of the subject property, Jack Crittenden. He stated that the wife of Ray Ward has informed him that during their ownership the property had been used as a triplex and that it had been rented as a four-plex prior to their ownership. He noted that Ms. Ward told him that the basement, first and second stories, and the detached building had at one time all been utilized as dwelling units. Mr. King pointed out that Mr. Fehrle offered no proof that the property was not divided into four units. He informed that a Building Permit was issued to Mr. Crittenden exactly as the one

Case No. 14127 (continued)

Issued in 1943 which permitted a four-plex. He explained that the building has only been repaired where repairs were necessary.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to CONTINUE Case No. 14127 to August 7, 1986.

Case No. 14128

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow a pre-school day care center to be operated within an existing elementary school in an AG zoned district, located at 2524 West 53rd Street.

Presentation:

The applicant, Henry Penix, 2715 East 51st Street, Tulsa, Oklahoma, asked the Board to allow him to operate a pre-school day care in the Remington Elementary School. He informed that the center will care for children from 2 years to school age and days and hours of operation will be Monday through Friday, 7 a.m. to 6 p.m.

Board Action:

On MOTION of BRADLEY, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Special Exception (Section 310 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow a pre-school day care center to be operated within an existing elementary school in an AG zoned district; finding that the center will be compatible with the neighborhood and in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

The east 760' of the south 1,146.31' of the SE/4, NW/4, Section 34, T-19-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14129

Action Requested:

Variance - Section 1330(b) - Setbacks - Request a variance of setback from the centerline of 35th Place for parking from 50' to 25'.

Variance - Section 280 - Structure Setback from Abutting Streets - Request a variance of setback from the centerline of 35th Street from 25' to 24.6' varying to 24.8'.

Case No. 14129 (continued)

Special Exception - Section 250.3 - Modification of the Screening Wall or Fence - Requirement - Request a special exception to waive conventional fencing requirement between parking and abutting R District, located on the SE/c of 35th Street and Peoria Avenue.

Presentation:

The applicant, Joe Francis, 515 Main Mall, Suite 300, Tulsa, Oklahoma, submitted a plat of survey (Exhibit R-1) and photographs (Exhibit R-2). He informed that his client recently purchased the Stonehorse Shopping Center and this application came about because of title requirements that were raised. He pointed out that the fence on the east is covered with shrubs and asked the Board to waive the conventional fencing requirement between the parking lot and the abutting residential neighborhood.

Comments and Questions:

Mr. Smith asked if the applicant will execute a removal contract stating that his client will remove the protruding planters if the City requires the right-of-way at some time in the future and Mr. Francis answered in the affirmative.

Protestants: None.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to APPROVE a Variance (Section 1330(b) - Setbacks) of setback from the centerline of 35th Place for parking from 50' to 25'; to APPROVE a Variance (Section 280 - Structure Setback from Abutting Streets) of setback from the centerline of 35th Street from 25' to 24.6' varying to 24.8'; and to APPROVE a Special Exception (Section 250.3 - Modification of the Screening Wall or Fence - Requirement) to waive conventional screen fencing requirement between parking and abutting R District; per plat of survey; and subject to the execution of a removal contract for the planters in the event the right-of-way portion is required for any reason in the future; finding there are numerous building encroachments in the older area and that the structure aligns with the other buildings on the block; and finding that the shrubbery along the fence provides adequate privacy for the residences that abutt the parking lot; on the following described property:

The north 2' of Lot 2, and all of Lots 3, 4, 5, 6 and the east 50' of Lot 12, Block 3, Oliver's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14130

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of the rear yard

Case No. 14130 (continued)

setback from 25' to 5' in an RS-1 zoned district, located on the SW/c of Rockford avenue and East 27th Street South.

Presentation:

The applicant, Linda Lambert, 2710 South Rockford, Tulsa, Oklahoma, was represented by Charles Sublett, 320 South Boston, Tulsa, Oklahoma, who submitted a plot plan (Exhibit S-1) and explained that his client owns a small house approximately a block from Philbrook Art Center which is located on a very large lot. He informed that the home does not have a garage and the owner is proposing to enlarge the house and add a garage. .

Protestants: None.

Board Action:

On MOTION of SMITH, the Board voted 5-0-0 (Bradley, Chappelle, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - of the rear yard setback from 25' to 5' in an RS-1 zoned district; per plot plan submitted; finding a hardship imposed on the applicant by the corner lot location; on the following described property:

Lot 1, and E/2 of Lot 2, and the east 8.45' of the south 58.62' of the W/2 of Lot 2, Block 2, Sunset View Addition, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 6 p.m.

Date Approved

7.24.86

Carl Chappelle
Chairman