

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 500
Thursday, October 1, 1987, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, September 29, 1987, at 4:15 p.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 **WHITE**, the Board voted 3-0-2 (Chappelle, Smith, White, "aye"; no "nays"; Bradley, Quarles, "abstaining"; none "absent") to **APPROVE** the Minutes of September 17, 1987.

UNFINISHED BUSINESS

Case No. 14609

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206 - Request a variance of the side yard setback from 5' to 1 1/2' to allow for the construction of a carport, located 1515 South Columbia Avenue.

Presentation:

The applicant, Will Arnold, 2117 East 60th Street, Tulsa, Oklahoma, submitted a location map (Exhibit A-1) and photographs (Exhibit A-2) and informed that he and his wife own the tag office at the corner of 15th and Columbia, along with the house next door. He stated that, at the time of purchase, the property had an old garage located to the rear of the lot. Mr. Arnold said that his neighbor to the south was concerned that the garage might fall over on his property, as it was leaning in that direction. The applicant stated that he then decided to remove the old building and replace it with a carport, which was approximately the same distance from the fence, but nearer the front of the lot. Mr. Arnold informed that he was not aware of the fact that Board permission was required. He pointed out that there are numerous carports in the area that are constructed close to the lot line, and asked the Board to allow him to add roofing and complete the project.

10.01.87:500(1)

Case No. 14609 (continued)

Comments and Questions:

Mr. Quarles inquired if the old garage had been constructed as close to the lot line as the new carport, and he replied that they were approximately the same distance from the boundary.

Protestants:

Patrick O'Brien, 1548 South Columbia Avenue, Tulsa, Oklahoma, stated that he thinks the carport is made from poor quality materials and is not comparable with the construction of the surrounding homes in the area.

Ms. White asked the protestant if he is opposed to the location of the carport, and he replied that he is opposed to the quality of the construction and not the location.

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 **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of the side yard setback from 5' to 1 1/2' to allow for the construction of a carport; per photographs submitted; finding a hardship imposed on the applicant by the narrowness of the lot; and finding that there are numerous carports in the older area that are as close to the lot line as the one in question; on the following described property:

Lot 9, Iverson's Subdivision, City of Tulsa, Tulsa County, Oklahoma.

The Board further instructed the two parties to get together and work out any differences as to the construction materials, if possible.

Case No. 14491

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in Commercial Districts - Use Unit 1213 - Request a variance of frontage to permit the platting of a property having 249' of frontage into one lot having 70' of frontage, another lot having 144' of frontage and another lot having 35' of frontage, located SE/c Riverside Drive and 71st Street.

Presentation:

The applicant, Roy Johnsen, 324 Main Mall, Tulsa, Oklahoma, stated that he is representing the owner of the subject tract. He informed that the owner is in a position to proceed with the first phase of development, which requires no action by the Board. Mr. Johnsen stated that the property will be platted as one lot at this time, and asked the Board to withdraw the application. He advised that his client may file a similar application in the future.

Case No. 14491 (continued)

Board Action:

On **MOTION** of **BRADLEY** the Board voted 4-0-1 (Bradley, Chappelle, Quarles, White, "aye"; no "nays"; Smith, "abstaining"; none "absent") to **WITHDRAW** Case No. 14491, as requested by the applicant.

Case No. 14604

Action Requested:

Variance - Section 1213.3(b) - Use Conditions - Use Unit 1213 - Request a variance of the required screening requirements, located NE/c of Lewis Avenue and I-244.

Presentation:

The applicant, Roy Johnsen, 324 Main Mall, Tulsa, Oklahoma, informed that he is representing White Eagle Investment Company, developer of the property at the above stated location. He pointed out that the development encompasses one city block, with Lewis Avenue forming the west boundary, Admiral Place the south boundary, Lewis Place to the east and Archer on the north. Mr. Johnsen pointed out that the CH zoned property was cleared of the dilapidated buildings, and a BI-Lo Supermarket was constructed. He noted that some of the properties to the east of Lewis Place and some on the north side of Archer are zoned residential and across the street from commercial zoning and, under the Zoning Code, a screening fence is required. He asked the Board to modify that requirement. Mr. Johnsen informed that a Building Permit was acquired, a Zoning Clearance was received, and the building was leased to BI-Lo, without his client being aware that a screening fence is required. He stated that contracts have been entered into based on the absence of a screening fence, and that his client had a representative to meet with property owners who would be directly affected by the requirement. Letters of support were submitted (Exhibit B-3). Mr. Johnsen informed that only one property owner objected to the absence of the fence. Photographs (Exhibit B-2) and a plat of survey (Exhibit B-5) were submitted.

Comments and Questions:

Ms. White asked if the surrounding properties are primarily owner occupied or rental properties, and Mr. Johnsen replied that he is aware of four houses that are owner occupied, but the majority are rental units. He noted that these four owners have been contacted and are not opposed to the absence of the screening fence. Mr. Johnsen pointed out that the houses front the new grocery store and due to the fact that the store is slightly elevated, a fence would wall in these houses. He stated that some property owners were concerned that a fence might provide hiding places for undesirables and security for school children walking in the area would be threatened.

Case No. 14604 (continued)

Ms. Bradley asked if this fencing issue concerns only the property to the east of the project, and the applicant replied that a portion of the north boundary is also in consideration. He informed that the loading docks are located on the north portion of the subject property, and some complaints have been filed concerning trucks parking on the sidewalk, which can be worked out by the grocery.

Protestants:

Terese Hull, 127 North Lewis Place, Tulsa, Oklahoma, submitted a petition of opposition to the variance request (Exhibit B-4), and stated that she lives approximately one half block from the subject property. Ms. Hull pointed out that the petition contains signatures of people that actually live in the area, and not only owners of the properties. She stated that, although she is very pleased with the new store in the area, the neighborhood should still receive the same protection as other parts of the City. She informed that the area residents were assured that a privacy fence would be constructed, and feels that the developer was aware of the fact that a fence is required. She stated that blowing trash is a problem and that the school children are forced to walk in the street to go around the trucks. Photographs (Exhibit B-2) were submitted.

Fran Pace, 1326 North Florence Avenue, Tulsa, Oklahoma, stated that she owns property in the area and feels that the two million dollar facility can afford to construct the required screening fence. She pointed out that the grocery business is a 24-hour operation and that Protective Inspections assured the property owners that a fence would be in place before the store opened in June. Ms. Pace stated that trucks have a great deal of difficulty negotiating the turn into the docks, and parked cars have been hit during this maneuver. A curb cut drawing (Exhibit B-1) was submitted. Ms. Pace asked the Board to deny the variance request.

Applicant's Rebuttal:

Mr. Johnsen pointed out that, due to the design of the building, the business could not operate if only the Lewis Place access is allowed.

Ms. Bradley remarked that fencing on the east would not affect the access points to the east, and Mr. Johnsen pointed out that Ms. Pace would like these east access points closed.

Mr. Quarles pointed out that five residents who live across from the grocery store are opposed to the application, and Mr. Johnsen stated that he felt he should contact the owners of the property instead of the renters.

After Ms. Bradley's question as to the hardship in this case, there was discussion as to whether the request should have been for a special exception or a variance.

Case No. 14604 (continued)

Mr. Quarles asked why the screening requirement was ignored throughout the course of construction of the building. Ms. Hubbard stated that the grocery was required to obtain an Occupancy Permit prior to opening, and at the time application was made she noted on the permit that a screening fence was required, but the Field Inspector approved the opening of it without the screen.

Mr. Johnsen pointed out that normally the applicant is advised of the screening requirement when a Building Permit is obtained. He stated that his client did not receive this information.

Ms. Bradley asked if the northernmost access is used by the supply trucks, and Mr. Johnsen replied that it is imperative that the business be allowed to use this access.

Mr. Quarles remarked that, due to the design of the building, it appears that trucks could not enter if the screening fence is erected on Archer. He stated that partial screening might allow the trucks to negotiate the turn into the loading docks.

Ms. Pace voiced an objection to the applicant's presentation to the Board without the use of a microphone, and pointed out that the large trucks cannot make the turns into the docks without going across the yards of residents.

Board Action:

Mr. Quarles made a motion for approval of the application, per conditions, but after a lengthy discussion between the Board and the applicant, Mr. Jackere pointed out that the motion was obviously not clear and asked that the prior motion be rescinded and restated.

Board Action:

On **MOTION** of **QUARLES** the Board voted 4-0-1 (Bradley, Chappelle, Quarles, White, "aye"; no "nays"; Smith, "abstaining"; none "absent") to **APPROVE** a **Variance** (Section 1213.3(b) - Use Conditions - Use Unit 1213) of the required screening requirements; subject to required screening being installed on East Archer Street; subject to required screening being installed on North Lewis Place, except for the existing ingress/egress on the northeast corner only, which will be of adequate size to allow delivery trucks to enter and exit; on the following described property:

Additional Comments:

Mr. Johnsen requested further clarification of the motion. He asked if one of the ingress/egress points is to be closed, and Mr. Chappelle informed that the access point on the northeast corner of Lewis Place will remain open, with the remaining access point on that street (where screening would be required) being closed.

There was a brief discussion concerning whether screening was even required at points of access.

Case No. 14604 (continued)

Lots 1 - 24, Block 1, Schlump Addition, an Addition to the City of Tulsa, Tulsa County, Less and Except that portion that is now right-of-way which has been dedicated for roadway. The resulting tract is more particularly described as follows, to-wit:

Beginning at the NW/c of Lot 24, Block 1, Schlump Addition, said point being the intersection of the east right-of-way line of North Lewis Avenue and the south right-of-way line of East Archer; thence N 89°49'00" E, along the north line of Block 1, Schlump Addition and the south right-of-way line of East Archer, a distance of 279.00' to a point, said point being the NE/c of Lot 1, Schlump Addition and the intersection of the south right-of-way line of East Archer and the west right-of-way line of North Lewis Place; thence due south along the east line of said Block 1 and the west right-of-way line of North Lewis Place, a distance of 587.50' to a point, said point being on the north right-of-way line of Interstate Highway 244, said point also being 5.00' north of the SE/c of Lot 12, Block 1, Schlump Addition; thence N 80°40'48" W along the north right-of-way line of Interstate Highway 244, a distance of 272.49' to a point; thence N 45°22'08" W along said right-of-way, a distance of 14.20' to a point, said point being 60.00' north of the SW/c of Lot 13, Block 1, Schlump Addition and on the east right-of-way line of North Lewis Avenue; thence due north, along said right-of-way and west line of Block 1, Schlump Addition, a distance of 532.50' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14486

Action Requested:

Variance - Section 1221.4 - CS District Use Conditions for Business Signs - Use Unit 1221 - Request a variance of the size of wall and canopy signs, located 3727 South Memorial Drive.

Presentation:

Mr. Jones informed that Mike Hackett, who is representing the applicant, Steve Williams, requested by letter (Exhibit C-1) that Case No. 14486 be continued until January 7, 1988. He stated that this will allow the TMAPC's Rules and Regulations Committee sufficient time to review an amendment to the Zoning Code, which could permit the signage requested by the applicant.

Mr. Gardner pointed out that the proposed revisions to the Zoning Code could affect the application. He stated that, if amendments are made, the case will be judged according to the revised Code.

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 **CONTINUE** Case No. 14486 to January 7, 1988, as requested by the applicant.

Case No. 14575

Action Requested:

Appeal - Section 1650 - Appeals from the Building Inspector - Use Unit 1221 - Appeal Building Inspector's decision to deny a sign permit application on the grounds of exceeding permitted sign surface footage.

Interpretation - Section 1660 - Interpretation - Use Unit 1221 - Request Interpretation of the term "non-illuminated background", as it appears in the term "display surface area", located 3727 South Memorial Drive.

Presentation:

The applicant, Michael Hackett, requested by letter (Exhibit C-1) that Case No. 14575 be continued to January 7, 1988, to allow sufficient time for the Rules and Regulations Committee to complete a study on amendments to the Code concerning signs. It was pointed out by the applicant, that the amendments will determine the amount of relief needed, if any.

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 **CONTINUE** Case No. 14575 to January 7, 1988, as requested by the applicant.

Case No. 14563

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1210 - Request a variance to allow for a parking lot in an RS-2 zoned district.

Variance - Section 1330 - Use Unit 1210 - Setbacks - Request a variance of setback from 50' to 30'.

Variance - Section 1340.(e) - Design Standards - Use Unit 1210 - Request a variance of the screening requirements, located 819 South 91st East Avenue.

Presentation:

The applicant, Department of Stormwater Management, was represented by Stan Williams, Director of DSM, who stated that a Drainage Study (Exhibit F-1) and a Watershed Development Permit (Exhibit D-1) have now been submitted, in addition to those documents supplied in the prior meeting. Mr. Williams stated that there is a 10 day appeal period for the permit. He informed that the storm sewer on the property in question has been inspected and is in working order. A Stormwater Case Review (Exhibit D-4) was submitted.

Comments and Questions:

Ms. Bradley asked Mr. Williams if DSM has held a meeting with the residents of the area to explain the application, and he replied that no DSM meetings have been held. He stated that a meeting was held by Eastwood Baptist Church before the prior hearing of the case, which DSM attended.

Ms. White asked if any neighborhood residents were present at the meeting with Eastwood, and Mr. Williams informed that there were citizens at the meeting that opposed the project and they could have been area residents. It was pointed out that the meeting was continued to allow the landowners in the area to acquire a hydrologist to study the drainage question.

Mr. Jackere pointed that the Board does not usually get involved in technical issues, and it seems that this hearing could result in the Board choosing between the opinions of neighbors and two expert hydrologists in a drainage dispute.

Mr. Quarles stated that this case was continued in order to allow drainage input from both sides in order to determine whether the variances should be approved.

Ms. Bradley asked Mr. Williams if it is not customary for his department to meet with residents in affected areas and explain projects of this nature.

Mr. Gardner explained that the reason Stormwater Management has filed the application is because they own the property in question. He informed that Eastwood Baptist requested that the property be used for a parking lot and paid for the engineering studies.

Mr. Williams stated that Mr. Gardner's explanation is correct, and due to this fact, feels that the church is the proper party to have meetings with the neighbors.

Protestants:

Dean Allen, 455 South 91st East Avenue, Tulsa, Oklahoma, who represented a large number of protestants in the audience, stated that a hydrologist was contacted and he determined that a hydrology study could be completed for a fee of \$5,000. He pointed out that the residents of the area are unable to pay the fee for the study. A packet and photographs (Exhibit D-3) were submitted.

Case No. 14563 (continued)

Additional Comments:

Mr. Chappelle pointed out that the case was continued to allow the protestants to retain a hydrologist, which they were unable to do, and asked if it is the Board's desire to hear further evidence.

Ms. Bradley stated that she would be amenable to hearing further evidence, but both Mr. Quarles and Ms. White agreed that the concerns of the neighborhood, other than drainage issues, were given sufficient consideration at the previous meeting.

Mr. Chappelle stated that he has viewed the property and read the minutes from the last meeting, and feels that, based on expert testimony from the hydrologist, the surrounding area will not experience an adverse impact by construction of the parking lot.

The protestant, Mr. Allen, submitted a hydrology study for the year 1957 (Exhibit D-2), which stated that construction should not have been allowed in the Mingo Creek Floodplain, and he pointed out that nothing has been done to change the situation since the study was performed.

Ms. Bradley stated that she has read the Drainage Report, which she did not find to be too technical to understand, and is convinced that berming and a storm sewer on the east side of the property, as shown on the plot plan, would alleviate any flooding that might have occurred by the construction of the parking lot.

Board Action:

On **MOTION** of **QUARLES** the Board voted 4-0-1 (Bradley, Chappelle, Quarles, White, "aye"; no "nays"; Smith, "abstaining"; none "absent") to **APPROVE** a **Use Variance** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1210) to allow for a parking lot in an RS-2 zoned district; to **APPROVE** a **Variance** (Section 1330 - Use Unit 1210 - Setbacks) of setback from 50' to 30'; and to **APPROVE** a **Variance** (Section 1340.(e) - Design Standards - Use Unit 1210) of the screening requirements; per plan submitted; finding that there are no houses on the RS-2 property in question; and finding that a screening fence would actually serve as a dam in the event of a flood; on the following described property:

Lots 6 - 12, Block 27, Lots 31 - 37, Block 32, Clarland Acres Addition, City of Tulsa, Tulsa Oklahoma.

Case No. 14594

Action Requested:

Variance - Section 240.2 - Permitted Yard Obstructions - Use Unit 1206 - Requests a variance to allow for an existing detached accessory building to be located in the side yard, and a variance of the size of existing detached building from 750 sq. ft. to 1080 sq. ft., located 3522 East King Place.

Presentation:

The applicant, Dewey Dougless, 3522 East King Place, Tulsa, Oklahoma, stated that he has already constructed a detached accessory building on his property without a Building Permit. Mr. Dougless explained that he was not aware that permission was required, and later found that the structure is also in the floodplain. The applicant stated that he has been meeting with Stormwater Management and has been able to comply with their requests, except for the fact that the building is 1' lower than the required elevation.

Comments and Questions:

Jack Page, Watershed Management Division, stated that his office is responsible for issuing the Watershed Development Permit, and pointed out that the garage in question is located in a regulatory floodplain. He pointed out that it has been determined that the subject property has flooded in the past and will continue to be flooded by Coal Creek. Mr. Page stated that his office has denied the watershed development application and, therefore, the applicant must apply to the City Commission for a waiver request.

Mr. Jackere asked Mr. Page if his office will recommend denial when the applicant applies for a waiver, and Mr. Page answered in the affirmative.

Mr. Quarles asked Mr. Jackere if he is of the opinion that the Board should not be hearing the application. He replied that drainage issues before this Board are intruding on another administrative appeal process and the application should be dealt with as a land use issue and not from a drainage standpoint. Mr. Jackere pointed out that a hardship may be demonstrated by the applicant and the case may be approved by this Board, but it could be denied by some other agency as it travels through the required process.

Case No. 14594 (continued)

Board Action:

Mr. Quarles motion for approval of the application died for lack of a second.

Mr. Gardner pointed out that the applicant's lot is larger than those in the surrounding area, with a larger side yard than most of the surrounding residences, which are facts that could be a basis for a hardship variance.

Ms. White asked if the building will be used to conduct a business, and the applicant replied that he will be using the garage only for his hobbies and storage.

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Chappelle, Quarles, Smith, White, "aye"; no "nays"; Bradley, "abstaining"; none "absent") to **APPROVE** a **Variance** (Section 240.2 - Permitted Yard Obstructions - Use Unit 1206) to allow for an existing detached accessory building to be located in the side yard, and a variance of the size of existing detached building from 750 sq. ft. to 1080 sq. ft.; subject to Stormwater Management approval; subject to filing a covenant, which will run with the land, stating that the accessory building will not be used for business purposes; finding a hardship demonstrated by the size of the lot, and the fact that the side yard is larger than those of the surrounding residences; on the following described property:

The east 126' of the north 144.85' of Lot 9, Ozark Garden Farms Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 14617

Action Requested:

Variance - Section 240.2(e) - Permitted Yard Obstructions - Use Unit 1206 - Request a variance of the required 20% rear yard coverage and of the 750 sq. ft. maximum for a detached accessory building.

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206 - Request a variance to allow for two dwellings on one lot of record.

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of the rear yard setback from 20' to 5' and a variance of the land area per dwelling unit from 8400 sq. ft. to 7800 sq. ft., located 1544 South Yorktown Place.

Presentation:

The applicant, Martha Braun, 1544 South Yorktown Place, Tulsa, Oklahoma, submitted a plot plan (Exhibit E-1), and asked the Board to allow the enlargement of an existing garage by 300 sq. ft., and the conversion of the structure into living quarters for her semi-invalid mother-in-law. She stated that her husband's mother is moving from another state and needs to live near the family. Ms. Braun pointed out that structures on abutting properties are less than 5' from the property line, as are many of the buildings in the older neighborhood. A petition of support (Exhibit E-2) was submitted.

Comments and Questions:

Mr. Smith asked the applicant to address the hardship for this case, and Ms. Braun stated that there is no hardship, except that the existing house cannot accommodate the addition of a bedroom and bath.

Ms. Bradley pointed out that there has been an amendment to the District Six Plan concerning Historical Preservation Areas, which requires that existing structures and land use be protected in these areas.

Ms. Braun stated that she does not think the proposed addition will be detrimental to the neighborhood. She pointed out that there are several properties in the area that have more than one dwelling unit.

Protestants:

Edward Brett, 1557 South Yorktown Place, Tulsa, Oklahoma, stated that he lives diagonally across the street from the subject property. He pointed out that the approval of this application would set a precedent in the area and be detrimental to property values. He suggested that the problem for the Braun's could be solved by adding to the existing dwelling.

Whit Mauzy, 1532 South Gillette, Tulsa, Oklahoma, stated the neighborhood is bordered on four sides by streets that have been converted to business use. He stated that approval of the additional dwelling on the lot would set a precedent in the area and might invite business encroachment into the neighborhood.

Ms. Braun stated that she has no intention of renting the property, but only needs a place for her mother-in-law to live. She asked if a covenant could be written that would bring the issue before the Board at regular intervals for review or an extension.

Case No. 14617 (continued)

Mr. Jackere informed that a private covenant is not the concern of the Board, but land use only is to be considered.

Mr. Quarles remarked that the Board is attempting to protect the character of the neighborhood.

Board Action:

On **MOTION** of **BRADLEY** the Board voted 4-0-1 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; White, "abstaining"; none "absent") to **DENY a Variance** (Section 240.2(e) - Permitted Yard Obstructions - Use Unit 1206) of the required 20% rear yard coverage and of the 750 sq. ft. maximum for a detached accessory building; to **DENY a Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206) to allow for two dwellings on one lot of record; and to **DENY a Variance** - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of the rear yard setback from 20' to 5' and a variance of the land area per dwelling unit from 8400 sq. ft. to 7800 sq. ft.; finding that the applicant failed to demonstrate a hardship for the variance requested; on the following described property:

Lot 11, Seven Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 14623

Presentation:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a minor variance of setback from the centerline of East 73rd Place South from 50' to 40', located 7335 and 7337 South Darlington Avenue.

Presentation:

The applicant, Jon T. Vrooman, 7331 South Darlington, Tulsa, Oklahoma, submitted a plot plan (Exhibit F-1), and stated that he has purchased a vacant lot which is located in an area where numerous duplexes were constructed. He informed that the rear property line abuts a single-family neighborhood. Mr. Vrooman stated that he has acquired a lot split on the property and is proposing to construct a single-family dwelling on each of the lots. He informed that the houses will align with the existing dwellings along Darlington Avenue.

Protestants: None.

Case No. 14623 (continued)

Board Action:

On **MOTION** of **WHITE** the Board voted 4-0-0 (Bradley, Quarles, Smith, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206) of setback from the centerline of East 73rd Place South from 50' to 40'; per plan submitted; finding a hardship imposed on the applicant by the corner lot location; and finding that the proposed houses will align with the existing dwellings along Darlington Avenue; on the following described property:

Lot 1, Block 4, Woodcrest Estates Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 14620

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206 - Request a variance of setback from the centerline of South Quaker Avenue from 50' to 30' to allow for a carport, located 4915 South Quaker Avenue.

Presentation:

The applicant, Grady Sykes, was represented by Lewis Mosier, 13811 East 32nd Street, Tulsa, Oklahoma, who submitted photographs (Exhibit G-2) and a plot plan (Exhibit G-3), and stated that the applicant and his wife are advancing in age and are requesting a carport to protect their driveway from ice and snow. He informed that TAI Manufacturers will install the carport over the driveway in front of the garage. Mr. Mosier stated that there are numerous carports in the immediate area (Exhibit G-1).

Protestants: None.

Board Action:

On **MOTION** of **SMITH** the Board voted 4-0-1 (Bradley, Quarles, Smith, White, "aye"; no "nays"; Chappelle, "abstaining"; none "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206) of setback from the centerline of South Quaker Avenue from 50' to 30' to allow for a carport; per plot plan submitted; finding that there are other carports in the area that are as close to the centerline as the one in question; and finding that the granting of the variance request will not cause substantial detriment to the public good or impair the spirit, purposes and intent of the Code or the Comprehensive Plan; on the following described property:

Lot 10, Block 17, Bellair Acres 2nd Extension Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14621

Action Requested:

Special Exception - Section 240.1 - Accessory Uses Permitted - Use Unit 1217 - Request a special exception to allow for automobile repair as a home occupation in an RS-3 zoned district, located 7147 East Marshall Place.

Presentation:

The applicant, Kenneth Chambers, 7147 East Marshall Place, Tulsa, Oklahoma, submitted a drawing (Exhibit H-1) and a petition of support (Exhibit H-2). Mr. Chambers stated that he has lived at the present location for 29 years and asked the Board to allow him to continue the operation of a small auto repair shop in his garage. He stated that his neighbors do not object to the auto repair business.

Comments and Questions:

Mr. Gardner inquired as to the length of time the repair shop has been in operation, and the applicant replied that he has operated the shop during the 29 years he has lived at this location.

Ms. White asked Mr. Chambers if he has employees, and he replied that his son-in-law, who is unemployed, helps him occasionally.

In answer to Ms. White's inquiry as to the volume of his business, the applicant informed that he usually works on no more than two cars at any given time.

Ms. Bradley asked the applicant if he has a two-car garage, and he answered in the affirmative.

Ms. White stated that there was more than one person repairing cars when she viewed the property, and asked Mr. Chambers if he is aware that the Home Occupation Guidelines prohibit the use of employees in a home occupation. The applicant replied that he is aware of this requirement.

Protestants: None.

Board Action:

On **MOTION** of **WHITE** the Board voted 4-0-1 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; Quarles, "abstaining"; none "absent") to **APPROVE** a **Special Exception** (Section 240.1 - Accessory Uses Permitted - Use Unit 1217) to allow for automobile repair as a home occupation in an RS-3 zoned district; per Home Occupation Guidelines; finding that the automobile repair shop has been operating at the present location for 29 years and has proved to be compatible with the neighborhood; on the following described property:

Lot 2, Block 5, Sun Valley 2nd Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14622

Action Requested:

Special Exception - Section 910 - Principal Uses Permitted In Industrial Districts - Use Unit 1227 - Request a special exception to allow for an automobile dismantling business in an IM zoned district, located 817 North Lewis Avenue.

Presentation:

The applicant, Bill Rye, was represented by Lewis Levy, 4317 East 60th Street, Tulsa, Oklahoma, who stated that his clients have started a business, B and R Dismantlers, at the above stated location. He informed that Chevrolet Camaros and Pontiac Firebirds are rebuilt inside a two-story industrial structure, which was formerly used for manufacturing purposes. Mr. Levy stated that the cars are sold after the rebuilding process is completed, but in order to obtain a license for the sale of automobiles, proper zoning is required by the state. He informed that his client applied for an Occupancy Permit and found that the dismantling operation and outside storage in an IM District requires relief from this Board. Mr. Levy pointed out that there are heavy industrial uses in the area, with Arrow Engines being located across the street, an engine manufacturing business to the west and Borg Steel to the northwest. He stated that his client employs three or four individuals, and the hours of operation for the business will be from 8:30 a.m. to 5:30 p.m., Monday through Friday, and from 8:30 to noon on Saturday. Photographs were submitted (Exhibit J-1).

Comments and Questions:

In response to Mr. Smith's inquiry as to the process for dismantling the automobiles, Mr. Levy explained that his clients purchase wrecked or burned cars and remove the parts that are not damaged. He noted that there is noise involved in the operation, which is the reason for all work being completed inside the building.

Mr. Smith asked Mr. Levy if the wrecked cars are stacked outside, and he replied that they are placed inside the building.

Ms. Bradley remarked that she observed some old cars outside the building, and Mr. Levy stated that there are some dismantled parts outside, which are not usable and are removed from the premises.

Protestants:

John McArtor, 3107 East 84th Street, Tulsa, Oklahoma, submitted a photograph (Exhibit J-2) and pointed out that the business is a salvage yard. He stated that the photograph was taken from his office that looks down on the property in question. He stated that 70 percent of the cars have not been moved since the operation began.

Case No. 14622 (continued)

Additional Comments:

Ms. Bradley asked the protestant how long the business has been in operation, and he stated that it has been in operation approximately 6 to 8 months.

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 **Special Exception** (Section 910 - Principal Uses Permitted in Industrial Districts - Use Unit 1227) to allow for an automobile dismantling business in an IM zoned district; subject to hours of operation being 8:30 a.m. to 5:30 p.m., Monday through Friday, and 8:00 a.m. to noon on Saturday; subject to all work being performed inside the building; finding that the granting of the special exception request will not be detrimental to the area and will not violate the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Beginning 1575' north and 28' east of the SW/c of Section 32, T-20-N, R-13-E, thence northeast 213.6' to railroad spur right-of-way; thence southwest 150.6'; west 171'; north 62.9' to the P.O.B. less the west 12' thereof, containing .39 acres, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 14624

Action Requested:

Special Exception - Section 410.6 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for a mobile home in an RS-3 zoned district.

Variance - Section 440 - Special Exception Use Requirements in Residential Districts - Use Unit 1209 - Request a variance of the time regulation from 1 year to permanently, location 4102 West 57th Street South.

Presentation:

The applicant, Maurice Reagle, 5722 South 39th West Avenue, Tulsa, Oklahoma, stated that he has purchased a lot at the above stated location and asked permission to place a mobile home on the property. He informed that the mobile home that was previously on the lot has been removed. Mr. Reagle stated that his son is purchasing a new unit and is proposing to install it on the lot in question. A plot plan (Exhibit K-1) was submitted to the Board.

Comments and Questions:

Mr. Smith pointed out to the applicant that a Stormwater Case Review (Exhibit K-2) has been submitted to the Board, and asked if the property has ever flooded.

Case No. 14624 (continued)

Mr. Reagle informed that he has lived in the area for 21 years and has never been flooded.

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 **Special Exception** (Section 410.6 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RS-3 zoned district; and **APPROVE** a **Variance** (Section 440 - Special Exception Use Requirements in Residential Districts - Use Unit 1209) of the time regulation from 1 year to permanently; per plan submitted; subject to Stormwater Management approval; finding that the subject lot has been used for mobile home parking prior to this time; and finding that the granting of the requests will not be detrimental to the area and will be in harmony with the spirit and intent of the Code; on the following described property:

Lot 1, Block 7, Doctor Carver Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14625

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1210 - Request a special exception to allow for off-street parking in an RM-2 zoned district.

Variance - Section 1680.1 - Special Exception - Use Unit 1210 - Request a variance to permit access through an RM-2 District to a commercial district.

Special Exception - Section 250.3 - Modification of Screening Wall or Fence Requirements - Use Unit 1210 - Request a variance of the screening requirements, located 1315 - 19 East 41st Place.

Presentation:

The applicant, Mazzio's Pizza Corporation, was represented by Charles Sublett, 320 South Boston, Tulsa, Oklahoma, who stated that the relief is requested to satisfy some contract requirements for the proposed sale of the property to Mazzio's. He informed that parking is limited for the restaurant and asked that three vacant RM-2 lots adjoining the restaurant be approved for off-street parking. Mr. Sublett asked that the screening requirement between the parking lot and the restaurant be waived, since it would serve no purpose. A plot plan (Exhibit L-1) was submitted.

Comments and Questions:

Ms. White asked Mr. Sublett if he is asking that the screening requirement be waived to the east and west of the lot, and he replied that there is not a waiver request for the west and east side of the property.

Case No. 14625 (continued)

Mr. Smith inquired if there is a parking lot already in place south of 41st Place, across from the subject property. Mr. Sublett replied that there is a parking lot south of the property in question and to the east of the retail space on Peoria Avenue.

Protestants:

Tom Brown, 1339 East 41st Place, Tulsa, Oklahoma, stated that he is not opposed to the parking lot, but is opposed to a variance of the screening requirement and ingress/egress on 41st Place. He noted that 41st Place is a quiet street and feels that a lot of traffic will be channeled in front of his home. Mr. Brown suggested that the restaurant traffic enter the parking lot from the existing Mazzio's lot.

Applicant's Rebuttal:

Mr. Sublett stated that he has lived in the area and pointed out that the traffic flow will be toward Peoria.

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 1210) to allow for off-street parking in an RM-2 zoned district; to **APPROVE** a **Variance** (Section 1680.1 - Special Exception - Use Unit 1210) to permit access through an RM-2 District to a Commercial District; and to **APPROVE** a **Special Exception** (Section 250.3 - Modification of Screening Wall or Fence Requirements - Use Unit 1210) of the screening requirements; per plan submitted; subject to all required screening being installed except between the restaurant and the off-street parking lot to the south; finding that a fence between the restaurant and the restaurant parking lot would serve no purpose; and finding that there are other parking lots in the area that are similar in size; on the following described property:

Lots 18 - 20, Block 1, Jennings-Robard's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14626

Action Requested:

Appeal - Section 1650.2 - Notice of Appeal - Use Unit 1213 - Request an appeal from the decision of the Building Inspector in issuing a zoning clearance permit for a sexually oriented business, located NW/c of 61st and Sheridan Road.

Presentation:

The applicant, Steve Clark, Suite 100, Tulsa Union Depot, 111 East First Street, Tulsa, Oklahoma, submitted a site plan (Exhibit M-1) and a photograph (Exhibit M-4), and stated that he is representing Park Plaza Shopping Center and Love Fellowship Church. Mr. Clark stated that the purpose of this application is to resolve some questions in regard to a permit that was issued for a sexually oriented business in Park Plaza Shopping Center. He informed that the Polo Club is operating at this time within 200' to 300' of Love Fellowship Church and within 47' of a parking lot belonging to Asbury Methodist Church, which is located to the north of the center. Mr. Clark pointed out that Love Fellowship Church leased space (Exhibit M-5) from the shopping center in February of 1987, and has conducted worship services there on a regular weekly basis until this time. He noted that the church is identified on the outside by a large sign. The applicant explained that the church was unaware that a Zoning Clearance Permit was required, and failed to obtain the permit prior to occupancy. Mr. Clark stated that he is submitting a copy of a memo (Exhibit M-3) he has presented to Mr. Jackere, which deals with the Asbury Methodist parking lot as well as the location of Love Christian Fellowship Church. The applicant concluded his remarks by pointing out that the church may have made a mistake by failing to apply for a Zoning Clearance Permit, and the City Zoning Code stipulates the penalty for such violations; however, the church is still a church. He pointed out that the ordinances are for the protection of the citizens of Tulsa.

Comments and Questions:

Mr. Chappelle inquired as to the length of time the Polo Club has been in operation, and Mr. Clark replied that approximately one year ago the shopping center entered into a lease with Jammers, a club for young people with no alcoholic beverages. He explained that Jammers assigned their lease to the Polo Club, which opened for business approximately 30 days ago.

In response to Ms. Bradley's inquiry as to the date the church obtained a permit, Mr. Clark replied that application was made for the permit approximately three weeks ago and it has been issued.

Mr. Clark pointed out that the Zoning Code cannot be designed to protect only the church building, but the people that use the building. He stated that the church parking lot is used at times by customers of the shopping center, and is used on a daily basis by members of Asbury Methodist Church.

Mr. Quarles asked if Asbury Methodist is the owner of the parking lot which is 47' from the Polo Club, and the applicant replied that the parking lot is owned by the church, with customers of the shopping center having the right of passage over the lot or parking there if necessary.

Interested Parties: (Protestants to the Polo Club)

John Williams, 8111 East 93rd Street, Tulsa, Oklahoma, stated that the church leased space in the Park Plaza Shopping Center for holding worship services and were not aware that a permit was required. He informed that church services are held in the building each week on Sunday and Wednesday, and occasionally at other times. A petition of opposition (Exhibit M-2) was submitted.

Mr. Jackere asked the protestant to describe the interior of the building, and Mr. Williams stated that there are chairs, an organ, a pulpit and two rooms for classes.

Mr. Jackere inquired as to the length of the church lease, and Mr. Williams informed that the church leases the property from month to month.

Mr. Quarles asked if the church is a member of a national or international organization, and the protestant replied that the church is totally independent and has a tax exemption number.

Norman Riser, 5917 East 54th Street, Tulsa, Oklahoma, stated that he is affiliated with the Homeowner's Association and objects to the change of the previous business to a sexually oriented business. He pointed out that the Asbury parking lot is nearby, as well as two children's dance studios within 50' of the club. Mr. Riser noted that a Boy Scout troop also holds regular meetings at the Asbury Church and feels that the Polo Club is not compatible with the area. A petition of opposition (Exhibit M-2) to the sexually oriented business was submitted.

Additional Comments:

Mr. Chappelle and Mr. Quarles agreed that they would like to hear from a representative of the Polo Club, and Ms. Bradley requested that the distance from the nearest residence also be addressed in that presentation.

Protestants: (Opposed to the appeal)

Tom Salisbury, 201 West 5th Street, Tulsa, Oklahoma, attorney for the Polo Club, stated that the nearest residence is 317' from the business in question. He stated that, according to a previous case, (Case No. 11491) Mr. Gardner stated that the measurement between a sexually oriented business and surrounding buildings is to be made from building to building. He informed that, based on this concept, a measurement was made by the surveyor from the corner of the Polo Club to the nearest corner of the Asbury Methodist Church, and that distance was found to be 578'. Mr. Salisbury stated that the Asbury parking lot is clearly within 47' of the club. He informed that he walked the entire shopping center before the surveyor was employed and did not see a sign bearing the name of Love Christian Fellowship. Mr. Salisbury said there was a "for lease" sign in the window where the church is now located. He stated that the zoning inspector also checked the area and found no church. It was pointed out by Mr. Salisbury that the church did not obtain a Zoning Clearance Permit or any other permit that would provide evidence

Case No. 14626 (continued)

that a church was in the building. He stated that Love Fellowship applied for an Occupancy Permit only a few days before the Polo Club opened for business. Mr. Salisbury stated that the only way the ordinance can give protection to a church is when the church makes it known where they are located. He stated that the Polo Club obtained their Zoning Clearance Permit first and is an ongoing business at this time.

Additional Comments:

Ms. White remarked that, although there is a question as to which use (legally) occupied the premises first, she is concerned with the proximity of the sexually oriented business to the Asbury Church parking lot, which is used extensively by the church during the daytime and evening hours.

Mr. Smith stated that the parking lot is as much a part of the church as the church property that the building sets on when it is used on a daily basis as much as Asbury Methodist; however, the location of the smaller church in the shopping center is evidence enough to negate the permit issued by the Building Inspector.

Board Action:

On **MOTION** of **WHITE** the Board voted 3-2-0 (Chappelle, Smith, White, "aye"; Bradley, Quarles, "nay"; no "abstentions"; none "absent") to **APPROVE** an **Appeal** (Section 1650.2 - Notice of Appeal - Use Unit 1213); and **REVERSE** the **decision** of the Building Inspector in issuing a zoning clearance permit for a sexually oriented business, based on the facts presented.

Lot 1, Block 1, Park Plaza Center Addition, City of Tulsa,
Tulsa County, Oklahoma.

Case No. 14627

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Units 1203 and 1215 - Request a use variance to allow for livestock uses and to allow for an electrical office/warehouse all in an RS-3 zoned district.

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for the replacement of an existing mobile home, located 16909 East 11th Street.

Presentation:

The applicant, Marvin Moffett, 3347 South 142nd East Avenue, Tulsa, Oklahoma, was represented by Patricia Moffett, who requested that a portion of a ten acre tract be used for a pasture for their daughter's horses. She stated that all of the adjoining properties, have livestock, except one neighbor who has stated that she is not opposed to the application. Ms. Moffett also requested that their daughter be permitted to replace an existing older mobile home with a new one. The applicant stated that there are other mobile homes

Case No. 14627 (continued)

in the area and that their daughter will live in the new mobile and take care of her horses. Ms. Moffett stated that her third request is to be allowed to construct a small office warehouse on the southeast corner of the ten acres. She stated that the warehouse will not generate additional traffic, as there are no retail sales on the property and it is used only by the family. Ms. Moffett explained that the business is commercial electrical construction and no employees are maintained in the warehouse area, with all materials being shipped to the job site. She pointed out that only items left over from projects are stored in the warehouse, and a small office will be maintained in the building, with office hours being from 8:30 a.m. to 4:30 p.m., Monday through Friday. Ms. Moffett informed that the 10 acre tract is zoned RS-3 and could be developed, but there is not a stormwater sewer or sanitary sewer in the area at this time. She stated that these services will not be available for approximately 10 years; therefore, creating a hardship for the immediate use of this property. A plot plan (Exhibit N-1) was submitted.

Comments and Questions:

Mr. Gardner asked where the proposed warehouse is to be located on the property, and Ms. Moffett replied that it will be constructed on the extreme southeast corner, outside the floodplain.

Mr. Gardner asked Ms. Moffett if there is an existing building on the property at this time, and she informed that there is not a building there at this time.

In response to Mr. Gardner's inquiry as to employees for the business, Ms. Moffett stated that she and her husband run the business from the office, but all work is done on the job site.

Mr. Gardner stated that there are numerous mobile homes and livestock in the general area. He pointed out that a commercial type building would not be appropriate in the RS-3 zoned property on 11th Street, but a customary accessory building behind the mobile home would be an alternative. He stated that the structure could then be used with a home occupation and be in harmony with the Comprehensive Plan. Mr. Gardner pointed out that the property in question could be zoned agricultural if such a request was made, but cannot be considered as commercial, based on the Comprehensive Plan.

Ms. Bradley asked the applicant to describe the use of the trailer, and she replied that there are supplies in the trailer that will be transferred to the warehouse. She informed that the trailer will be removed from the property.

Mr. Quarles inquired as to the number of employees working in the business, and Ms. Moffett stated that eight people are employed during busy times.

Ms. Bradley remarked that there is a creek to the north and asked if the property is in a flood area. Ms. Moffett replied that a portion of the property is in a flood zone.

Case No. 14627 (continued)

Mr. Quarles stated that he does not believe the business could be classed as a home occupation, since a request has been made for 2400 sq. ft. of warehouse and office space for a commercial electrical construction company.

Marvin Moffett, 3347 South 142nd Street, Tulsa, Oklahoma, stated that the building can be smaller than 2400 sq. ft., but the required 800 sq. ft. accessory building would not be large enough for the warehouse.

Ms. Hubbard stated that the applicant may need additional relief, and suggested that the Board might consider continuing the case until the applicant can meet with the Building Inspector.

Mr. Smith suggested that the item in question be continued to allow the applicant sufficient time to confer with Staff and the Building Inspector.

Mr. Jackere stated that he does not see a problem with the advertising. He pointed out that the applicant informed the Board that the property cannot be utilized for residential purposes and if the use is appropriate it can be heard at this time.

Mr. Gardner stated that the notice is broad enough, as the request is to use the land differently than the zoning permits.

Mr. Quarles informed that he has no problem with the livestock or mobile home on the property, but does have a problem with the warehouse.

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 **APPROVE** a **Use Variance** (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1203) to allow for livestock uses in an RS-3 zoned district; to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1209) to allow for the replacement of an existing mobile home; subject to the square footage of any barn or outbuilding being limited to 750 sq. ft.; finding that the applicant is actually replacing an older mobile home with a new one and that there are numerous mobile homes in the area; and finding that the subject property abutts agricultural properties with livestock; and to **CONTINUE** the request for an electrical office/warehouse to October 15, 1987; to allow the applicant sufficient time to review the plot plan with Staff and the Building Inspector for possible relocation of the building; on the following described property:

The W/2, of the W/2, of the SW/4, of the SE/4 of Section 2, T-19-N, R-14-E of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, containing 10 acres, more or less, also know as 16909 East 11th Street, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14631

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow for automotive and allied activities (sales, repair and detailing) in a CS zoned district.

Variance - Section 1217.3 - Use Conditions - Use Unit 1217 - Request a variance to allow for the sale and outdoor storage of merchandise within 300' of an R District, located 10661 East 31st Street.

Presentation:

The applicant, Adeleke A. Ogunseye, 10661 East 31st Street, Tulsa, Oklahoma, stated that his automotive business consists of automobile sales, mechanical work and restorations; however, there is not sufficient space at this time for the restoration process. He informed that he only sells expensive, exotic, European cars.

Comments and Questions:

Mr. Bradley asked the applicant if he sells new or used cars, and he replied that some are used and some are new. He explained that many owners of expensive automobiles bring their vehicles to him for servicing. Mr. Ogunseye stated that he imports cars from overseas.

Ms. Bradley asked the applicant if the automotive work is done outside, and he replied that all work will be accomplished inside the building.

Mr. Quarles asked the applicant if he owns the property in question, and he answered in the affirmative.

Mr. Ogunseye informed that he has spoken with the surrounding property owners and they are in support of the application. He stated that the neighbors were very interested in what would be operating in the building, because at one time a sexually oriented business occupied the property. A petition of support (Exhibit R-2) was submitted.

Mr. Quarles asked the applicant if he is a franchised or independent dealer, and Mr. Ogunseye replied that he is an independent dealer, and travels all over the world to purchase the cars.

Mr. Chappelle stated that the Board has received a letter (Exhibit R-3) from The Dunham Company, requesting that a screening fence be required around the storage area if the application is approved.

Mr. Smith pointed out that the property is near the expressway and on a major arterial street, and voiced a concern with any type of salvage operation being placed on the lot.

Case No. 14631 (continued)

Mr. Ogunseye stated that most of the nearby residential properties have privacy fences, and reiterated that the cars will be of high quality.

A Stormwater Case Review (Exhibit R-1) was submitted to the Board.

Protestants:

Pat McFee, 10638 East 33rd Court, Tulsa, Oklahoma, stated that he drives by the property every day and observed that there are approximately 30 salvage cars on the lot at this time. He noted that the property is clearly visible from the restaurant next door and from the expressway. He stated that the lot is unsightly and the building has an unfinished appearance.

Ms. Bradley remarked that she has viewed the property and that there are junk cars on the lot at this time.

Mr. Smith pointed out that there are no car lots on 31st Street east of the Mingo Valley Expressway.

Betty Hilpin, 2501 East 51st Street, Tulsa, Oklahoma, stated that she is the Broker at Realty Center and transacted the sale of the property in question. She informed that the property is in litigation and there has not been a payment made on the property since the closing.

Mr. Jackere asked the Board to disregard the last comment made by the protestant. He pointed out that the Board deals with land use and cannot consider this type of information in their decision.

Applicant's Rebuttal:

Mr. Ogunseye stated that Regency Oldsmobile is located to the west of his property and Firestone is also in the area, doing the same type of business as he is proposing. He informed that his business is not in operation at this time, and will not open until renovations are completed.

Ms. Bradley remarked that the building appears to be too small to store automobiles, and the applicant replied that the building contains 5000 sq. ft. of floor space.

Mr. Quarles stated that the intersection around the subject property is a nice area and, although he might be inclined to approve an attractive franchise dealership, is opposed to a repair shop.

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 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217) to allow for automotive and allied activities (sales, repair and detailing), as presented, in a CS zoned district; and to **DENY** a **Variance** (Section 1217.3 - Use Conditions - Use Unit 1217) to allow for the sale and

Case No. 14631 (continued)

outdoor storage of merchandise within 300' of an R District; finding that there are no automobile sales and repair operations as far east as the proposed location, and that the business, as presented, would not be compatible with the area; and finding that a hardship was not demonstrated that would warrant the granting of the variance request; on the following described property:

A tract of land situated in the SE/4 of Section 18, T-19-N, R-14-E, of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit:

Beginning at a point 824.17' due East and 50.00' due north of the SW/c of said SE/4, said point also being the SE/c of Block 1, Helen N. Commercial Center, a subdivision in Tulsa County, Oklahoma; thence N 38°41'36" W along the easterly line of said Helen N. Commercial Center, a distance of 320.31' to a point, said point also being the NE/c of said Helen N. Commercial Center; thence due east and parallel with the south line of said SE/4, a distance of 200.24' to a point; thence south, a distance of 250.00' to the point of beginning;

AND

All of Lot 3, Block 1, Helen N. Commercial Center, and part of Lot 2, Block 1, Helen N. Commercial Center, more particularly described as follows:

Beginning at the NE/c of Lot 3, Block 1, thence west along the north line of Lot 3 to the NW/c of Lot 3; thence north to a point on the north line of Lot 2, thence east on the north line of Lot 2 to the NE/c; thence southeasterly along the east line of Lot 2, to the point of beginning, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 12751

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request an exception to permit locating two mobile homes in an RS-3 zoned district.

Variance - Section 440.6 Special Exception Uses in Residential Districts, Requirements - Request a variance to locate two mobile homes permanently and a waiver of the customary removal bond requirement, located 5015, 5119 and 5121 East Virgin Avenue.

Case No. 12751 (continued)

Presentation:

The applicant, Gabriel Lucero, 5015 East Virgin Street, Tulsa, Oklahoma, stated that the Board gave him permission to place a mobile home on the property in 1983, subject to a removal bond. Mr. Lucero explained that he has been paying the required amount for the past four year, but is out of work at this time and requested that the payment be waived for a period of one year.

Comments and Questions:

Mr. Jones stated that this case was not advertised and the Board can determine if advertising is essential, and if so, the application will be advertised and placed on the next available agenda. He pointed out that the \$500 removal bond was not required by the Board, but is a condition of the Zoning Code. Mr. Jones informed that the applicant's 5 year approval will expire in August, 1988, and he will be required to get an extension or remove the mobile home from the property at that time.

Ms. Hubbard informed that there have been instances where applicants have been refused a bond at the insurance company for more than one year, and some approvals are for as many as five years. She pointed out that the applicant is then required to pay the \$500 in cash.

Board Action:

On **MOTION** of **SMITH** the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **WAIVE** the removal bond requirement until the current expiration date, August, 1988.

There being no further business, the meeting was adjourned at 5:08 p.m.

Date Approved 10.22.87


Chairman