CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 512
Thursday, April 7, 1988, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, April 5, 1988, at 1:00 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 1:04 p.m.

MINUTES:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** the Minutes of March 3, 1988.

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **CONTINUE** approval of minutes for the March 17, 1988 meeting until April 21, 1988, due to the fact that Ms. White and Mr. Chappelle were not present at the March meeting.

UNFINISHED BUSINESS

Case No. 14777

Action Requested:

Use Variance - Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1214 - Request a use variance to allow for Use Unit 14 in an OL zoned district, located 7712 East 71st Street.

Presentation:

The applicant, McDowell and Associates, was represented by Dave Jackson, 8455 South College, Tulsa, Oklahoma, who submitted a plot plan and photographs (Exhibit A-1). He asked that all Use Unit 14 uses be permitted in the building, in order that the owner can better market the property. Mr. Jackson informed that a use variance was previously approved to allow the operation of a paint store in the building. He pointed out that the west 25' of the building is zoned OL, with the remaining portion being CS. A location map (Exhibit A-2) was submitted.

Case No. 14777 (continued)

Comments and Questions:

Ms. Bradley asked Mr. Jackson to state the width of the OL zoned portion, and he replied that there is a strip approximately 75' wide with OL zoning.

Mr. Gardner pointed out that the portion of the building which is zoned CS can be used for commercial purposes without relief from this Board, but the fact that a 25' portion of the building is OL restricts the use. He informed that the previous ruling by the Board restricts the use of the building to a paint store only.

Protestants:

Brian Bailey represented the Southeast Tulsa Homeowner's Association. He stated that this organization has submitted a letter of protest (Exhibit A-3) to the Board and that he is present to reinforce their position in this matter. Mr. Bailey pointed out that traffic is heavy in the area and asked that the application be denied.

Additional Comments:

Ms. White asked Mr. Bailey if he was aware of the fact that the building had two zoning classifications at the time the letter of protest was written, and he replied that that he was aware of the two zoning classifications.

Mr. Gardner remarked that a paint store is a similar use to the other uses in Use Unit 14.

Mr. Chappelle pointed out that there are no plans for modifying or adding on to the existing structure.

Board Action:

SEE "CLARIFICATION OF MINUTES" SEPT. 15, 1988

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Bradley, Chappelle, White, "aye"; no "nays"; Smith, "abstaining"; Quarles, "absent") to **APPROVE** a **Use Variance** (Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1214) to allow for Use Unit 14 in an OL zoned district; subject to no expansion of the building; finding a hardship imposed on the applicant by two zoning classifications on the property, with the major portion of the building being located in a CS Zone and the remaining portion located in an OL Zone; on the following described property:

The west 225' of the north 460' of the west 903' of the NE/4 of the NE/4 less the west 50' thereof, Section 11, T-18-N, R-13-E, Tulsa County, State of 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.

Case No. 14486 (continued)

Comments and Questions:

Mr. Jones informed that revisions in the sign ordinance are being made and stated that the applicant has requested by letter (Exhibit B-1) that Case No. 14486 be continued to the September 1, 1988 meeting, to allow the revisions to be completed.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **CONTINUE** Case No. 14486 to September 1, 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 sign surface footage.

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

Presentation:

Mr. Jones informed that revisions in the sign ordinance are being made and stated that the applicant, Michael Hackett, has requested by letter (Exhibit B-1) that Case No. 14486 be continued to the September 1, 1988 meeting, to allow the revisions to be completed.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **CONTINUE** Case No. 14575 to September 1, 1988, as requested by the applicant.

Case No. 14754

Action Requested:

Appeal - Section 1650.2 - Appeals from the Building Inspector - Use Unit 1213 - Request an appeal from the decision of the Building Inspector in denying the issuance of a zoning clearance permit for a bookstore, located 814 South Sheridan Road.

Presentation:

The applicant, Thomas Salisbury, 201 West 5th Street, Tulsa, Oklahoma, stated that he is representing the operators of the bookstore in question. He informed that the Zoning Code states that a business that has adult material as a substantial portion of its stock and trade will be considered an adult bookstore and must have

Case No. 14754 (continued)

a sexually oriented zoning clearance permit. Mr. Salisbury explained that certain modifications and changes have been made to the store, and a request was submitted to the zoning officer that the store be no longer classified as an adult bookstore, but just a newsstand. He informed that this request was denied and an appeal was filed. Mr. Salisbury submitted a floor plan (Exhibit C-2) which depicts the areas where adult material and non-adult material are being displayed. He pointed out that 40% of the total square footage is being utilized for adult material, with 60% of the space for non-adult material. It was noted by the applicant that the front portion of the store contains magazines and books, with a dividing wall separating this area from the back portion of the store which contains books and articles for adult viewing. Mr. Salisbury informed that all adult movies have been removed from the building. He stated that it is his position that a "substantial portion of stock and trade" would deal with the merchandise for sale, and stated that the major portion of stock in this store is non-adult.

Protestants:

Vincent Regalado, Manager of Charl Ann Apartments, 6324 East 7th Street, Tulsa, Oklahoma, submitted a petition of protest (Exhibit C-3) and asked the Board to deny the request. He informed that the business is an adult bookstore and the sign on the door states that no minors are allowed. Mr. Regalado stated that the store is located 90' from the apartments and that bookstore customers use their parking lot. He informed that drug paraphernalia litters the area surrounding the bookstore and stated that a store of this type is not compatible with the surrounding residential area. Mr. Regalado stated that he visited the bookstore and found that a space 6' by 10' is devoted to non-adult material, with the remainder of the building containing books and articles for adults.

Comments and Questions:

Mr. Chappelle asked that Ms. Hubbard state the reason for denial of the zoning clearance permit.

Ms. Hubbard submitted a list of criteria (Exhibit C-1) used in determining if the business in question is an adult bookstore or a newsstand. Numerous photographs (Exhibit C-4) of materials displayed in the adult and non-adult areas of the store were submitted. Ms. Hubbard informed that she viewed the property and found that a sign was in place on the door that restricted minors from entering. She stated that during a tour of the building, it was noted that there were no customers on the non-adult side of the store, with all purchases being made on the adult side. Ms. Hubbard stated that the periodicals in the non-adult side were poorly displayed and low priced. She informed that she asked the store clerk if it would be possible to find a specific type of book for a customer shopping on the non-adult side, and was told that this would not be possible. Ms. Hubbard noted that the Elite Bookstore

Case No. 14754 (continued)

is open 7 days each week and 24 hours each day, which are not typical days and hours of operation for other bookstores in the city.

Ms. Bradley asked Ms. Hubbard if she would agree with the applicant concerning the floor area for the adult portion and the non-adult portion of the store, and she answered in the affirmative.

Applicant's Rebuttal:

Mr. Salisbury stated that the floor plan submitted to the zoning officer was correct and the adult inventory is 35% to 40% of the total amount. He noted that the display racks are the same in both portions of the store, with both new and used materials sold in both the adult and non-adult sides. Mr. Salisbury stated Ms. Hubbard is correct in stating that the items in the adult side of the store are sold at a higher price than those on the non-adult side.

Additional Comments:

Mr. Smith asked Mr. Salisbury if separate records are kept for sales in the adult and non-adult portions of the store, and he replied that this information on the sales is available, but not at this time.

In reponse to Mr. Smith's question concerning the sale of non-adult material to collectors, and Mr. Salisbury informed that ceramics, paperback book and old novels are sold.

Mr. Chappelle stated that 35% to 40% is a significant amount of adult materials in this case.

Mr. Smith stated that he visited the store and is in agreement with Mr. Chappelle that that 35% to 40% is a significant amount of adult material displayed in the store.

Ms. White and Ms. Bradley concurred with the position of Mr. Chappelle and Mr. Smith.

Board Action:

On **MOTION** of **SMITH,** the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **DENY** an **Appeal** (Section 1650.2 - Appeals from the Building Inspector - Use Unit 1213) from the decision of the Building Inspector in denying the issuance of a zoning clearance permit for a bookstore, and to **UPHOLD** the **Decision** of the Building Inspector; finding the display of adult material in the store to be a significant amount; on the following described property:

E/2 of Lot 59, Glenhaven Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14755

Action Requested:

Appeal - Section 1650.2 - Appeals from the Building Inspector - Use Unit 1213 - Request an appeal from the decision of the Building Inspector in denying the issuance of a zoning clearance permit for a bookstore, located 1 North Lewis Avenue.

Presentation:

The applicant, Thomas Salisbury, 201 West 5th Street, Tulsa, Oklahoma, submitted a floor plan (Exhibit D-1) for Whittier Square Newsstand, formerly known as Whittier Adult Bookstore. He informed that the building has been remodeled and now has a more open look. It was noted by the applicant that approximately 37% of the material in stock is of an adult nature, with 63% being non-adult. He explained that the non-adult (novelties, ceramic items, new and used paperback books, magazines) material is located toward the front of the store and is visible from the outside, with the adult section containing the same items which are of an adult nature. Mr. Salisbury informed that some of the books in the non-adult and adult portion of the store are packaged together and sold at a reduced price.

Comments and Questions:

Ms. Bradley asked the applicant to describe the signage for the newsstand, and he replied that the sign states that novelties, magazines and books are sold there, with no reference to adult material. Mr. Salisbury stated that a sign on the door prohibits those under 21 years of age from entering. He pointed out that the City has an Anti-Display Ordinance which prohibits the display of adult materials to persons under 18 years of age. He remarked that the operator of the store has decided to keep those under 21 years of age out of the store, rather than risk violation of the Anti-Display Ordinance.

Mr. Jackere asked if the adult books could be covered, with only the title showing, and the applicant replied that the owner prefers to keep the younger people out of the store.

Mr. Jackere asked if some of the books are displayed in boxes which would require the customer to rummage through the material to determine the title, and the applicant answered in the affirmative. Mr. Jackere asked if this type of display is more prevalent in the non-adult side, and Mr. Salisbury replied that there is no difference in the way the materials are displayed.

Ms. Hubbard informed that she observed that the covers and titles of books in the adult side of the store were visible, while this was not the case in the non-adult portion.

Ms. Bradley asked Ms. Hubbard if she agrees with the percentage of the floor area that the applicant has previously stated, and she replied that the 37% and 63% designated for the adult and non-adult portions is correct. Photographs were submitted (Exhibit D-2).

Case No. 14755 (continued)

Protestants:

Edward Snyder stated that he is the preacher for the Memorial Christian Church, which is located in the area. Mr. Snyder informed that he and his wife visited the store and found the material there to be sexually oriented and in violation of the Code.

Mr. Chappelle pointed out that the issue before the Board is whether or not a significant amount of the material for sale is of an adult nature.

Mr. Jackere informed Mr. Snyder that an adult bookstore is an establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals, which are distinguished or characterized by an emphasis on depicting or describing sexual conduct for specified anatomical areas.

Mr. Snyder stated that the amount of floor space designated for the adult and non-adult portions is probably correct, but the adult side has more material for sale because the walls are covered with sexually oriented items. He remarked that there is also a bulletin board for acquiring sex partners in the store. Mr. Snyder pointed out that the bookstore still has the same customers that it had before the remodeling took place.

Ms. Bradley asked Ms. Hubbard if she has any way of determining the amount of adult material in the store, and she replied that she does not know the amount.

Mr. Jackere stated that a bookstore could comply with the ordinance by displaying a large amount of old magazines and papers in order to have it appear that the larger portion of the inventory is in the non-adult portion of the store. He pointed out to the Board that they should consider the stock in trade, or what is actually offered for sale, and the way in which the merchandise is displayed.

Sherry Hort, President of the Kendall Whittier Neighborhood Association, stated that she lives in the neighborhood and stated that she has observed no difference in the store clientele since the remodeling and the name change. She asked the Board to deny the application.

A petition and letter of opposition (Exhibit D-3) were submitted to the Board.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **DENY** the **Appeal** (Section 1650.2 - Appeals from the Building Inspector - Use Unit 1213) from the decision of the Building Inspector in denying the issuance of a zoning clearance permit for a bookstore; and to **UPHOLD** the **Decision** of the Building Inspector; finding the display of adult material in the bookstore to be a significant amount; on the following described property:

Case No. 14755 (continued)

Lot 13, Block 4, East Highland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14761

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of setback from 30' to 20' on Owasso Place, a variance of setback from 30' to 15' on 24th Street and a variance of rear yard setback from 25' to 10' to allow for a dwelling unit, located NE/c 24th Street and Owasso Place.

Presentation:

The applicant, John Boyd, 111 West 5th Street, Tulsa, Oklahoma, submitted a building layout (Exhibit E-1) and informed that this case was previously continued to allow sufficient time for readvertising. Mr. Boyd informed that the property in question is located one block west of the Woodward Park Rose Garden and is a part of a triangular portion of land that has been split into three lots. He noted that two of the lots have existing dwellings and his client is proposing to construct a house on the remaining lot. Mr. Boyd informed that the house will contain approximately 3000 sq. ft. of floor space.

Interested Parties:

Mike Conger, 525 South Main, Tulsa, Oklahoma, stated that he is representing the Mapleridge Homeowner's Association. He informed that the neighborhood is not opposed to the application if the house is constructed in accordance with the architectural guidelines of the proposed Historic Preservation Ordinance and has Stormwater Management approval.

Robert Glass stated that he has a contract pending on the lot and has submitted the first draft of elevations to the Mapleridge Association. He pointed out that the Historic Preservation Ordinance has not been adopted and is not binding at this point. Mr. Glass stated that the association has viewed and approved the plot plan.

After discussion, the Board concurred that they would consider approving the application per plot plan, with any proposed changes coming back to the Board for approval.

A plot plan (Exhibit E-3) and conceptual drawing (Exhibit E-2) were submitted.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Bradley, Chappelle, White, "aye"; no "nays"; no "abstentions"; Smith, Quarles, "absent")

Case No. 14761 (continued)

to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206) of setback from 30' to 20' on Owasso Place, a variance of setback from 30' to 15' on 24th Street and a variance of rear yard setback from 25' to 10' to allow for a dwelling unit; per plot plan and conceptual drawing submitted and subject to Stormwater Management approval; finding a hardship imposed on the applicant by the configuration of the lot and major setbacks from two streets; on the following described property:

TRACT B

A part of Lots 1 and 2, Block 1, Sunset Park Third Resubdivision to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit:

Beginning the the SE/c of said Block 1; thence northerly along the easterly line of said Lot 1, a distance of 100.00' to a point; thence westerly and parallel with the southerly line of said Lot 2, a distance of 155.7' to a point on the westerly line of said Lot 2; thence southerly and along the westerly line of said Lot 2, for a distance of 114.2' to a point; thence around a curve to the left whose radius is 8.94' to a point on the southerly line of said Lot 2; thence easterly along the southerly line of said Lot 2, a distance of 226.79' to the point of beginning.

LESS AND EXCEPT

Beginning at the SE/c of said Block 1; thence northerly along the easterly line of said Lot 1, a distance of 100.00' to a point; thence westerly and parallel with the southerly line of said Lot 2, a distance of 155.7' to a point on the westerly line of said Lot 2; thence southerly and along the westerly line of said Lot 2, for a distance of 10.05' to a point; thence easterly and parallel to the south line of said Lot 2, a distance of 63.38' to a point; thence southerly a distance of 27.98' to a point; thence southerly at a deflection angle to the left of 6°17', a distance of 65.36' to a point on the southerly line of said Lot 2; thence easterly on a deflection angle to the left of 88°06'48", and along the southerly line of said Lot 2 a distance of 101.63', to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 14790

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a minor variance of rear yard setback from 25' to 20' to allow for an addition to an existing dwelling, located 4141 East 42nd Place.

Case No. 14790 (continued)

Presentation:

The applicant, Keith Mateychick, 4141 East 42nd Place, Tulsa, Oklahoma, submitted a plot plan (Exhibit F-1), and explained that he is proposing to construct a master bedroom on the back portion of the house. He informed that the addition will be 19' by 48'.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Chappelle, White, "aye"; no "nays"; no "abstentions"; Smith, Quarles, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of rear yard setback from 25' to 20' to allow for an addition to an existing dwelling; per plot plan submitted; finding a hardship demonstrated by the size and shape of the lot; on the following described property:

Lot 12, Block 4, Saddlelane Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14791

Action Requested:

Variance - Section 280 - Structure Setback from Abutting Streets - Use Unit 1221 - Request a minor variance of setback from the centerline of 11th Street from 50' to 30' to allow for a business sign, located 2604 East 11th Street.

Presentation:

The applicant, Terry Howard, was represented by Charles Hare, 6550 East Independence, Tulsa, Oklahoma, who submitted a plot plan (Exhibit G-1) and a sign drawing (Exhibit G-2). He informed that the sign and base have been at the present location for more than 30 years and asked the Board to allow Sun Oil Company to replace the existing DX sign with a new one. Mr. Hare stated that the same base and pole will be utilized for the proposed sign.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Chappelle, White, "aye"; no "nays"; no "abstentions"; Smith, Quarles, "absent") to **APPROVE** a **Variance** (Section 280 - Structure Setback from Abutting Streets - Use Unit 1221) of setback from the centerline of 11th Street from 50' to 30' to allow for a business sign; per sign plan submitted; subject to the the sign being placed on the existing pole at the present location; finding that the pole has been at the present location for many years and 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:

Lots 1 and 2, Block 1, Flanagan Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14792

Action Requested:

Variance - Section 280 - Structure Setback from Abutting Streets - Use Unit 1221 - Request a minor variance of setback from the centerline of 21st Street from 60' to 41' to allow for a business sign, located NE/c 21st Street and Yorktown Avenue.

Presentation:

The applicant, James Millspaugh, 3148 South 108th East Avenue, Tulsa, Oklahoma, was represented by Duane Nelson. He submitted a plot plan (Exhibit H-1) for a sign that will be erected in the existing planter box at the above stated location. Mr. Nelson informed that the sign will be 8" wide, 72" long and 30" high.

Comments and Questions:

Ms. White asked if the proposed sign will align with the sign for the Dermatology Clinic to the east, and Mr. Nelson answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Bradley, Chappelle, White, "aye"; no "nays"; Smith, "abstaining"; Quarles, "absent") to **APPROVE** a **Variance** (Section 280 - Structure Setback from Abutting Streets - Use Unit 1221) of setback from the centerline of 21st Street from 60' to 41' to allow for a business sign; per plot plan submitted; finding that the proposed sign will align with the sign to the east; and finding that there other signs in the area that are as close to 21st Street as the one proposed at this location; on the following described property:

Lot 12, Block 10, Woodward Park Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 14784

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1213 - Request a use variance to allow for commercial uses in an RM-1 zoned district, located SE/c Cincinnati Avenue and Seminole Place.

Case No. 14784 (continued)

Presentation:

The applicant, Edmond Scott, 1811 North Cincinnati, Tulsa, Oklahoma, submitted a petition of support (Exhibit X-1) and informed the Board that he leased the property in question for use as a chili parlor. He stated that both he and the owner thought the building was zoned to allow commercial uses. Mr. Scott pointed out that the building has been used for business purposes for approximately 30 years, but has never been zoned for this use. He asked the Board to permit him to operate a cafe on the property.

Comments and Questions:

Ms. Bradley asked the applicant to state the different uses, and he replied that the property has been used for a grocery store, karate club and a restaurant.

Mr. Jackere pointed out that the request is for a use variance and the Board should consider other uses in the neighborhood. He pointed out that a use variance is the action requested at this time and the issue of non-conformity is another matter.

Ms. Bradley informed that she has viewed the area and found no hardship for the case.

Altha Longdon, 3209 South Owasso, Tulsa, Oklahoma, stated that a grocery store and a real estate office was in operation when she purchased the property. She informed that the building has been used for various commercial uses since she bought the property.

Mr. Jackere asked if the structure looks like a commercial building, and Ms. Longdon answered in the affirmative.

Mr. Chappelle informed that an auto parts store is in operation across the street from the subject property and an insurance company is located to the east.

Mr. Jackere asked Ms. Longdon how long the building has been vacant, and she replied that the building has been under renovation for approximately one year due to vandalism.

Mr. Chappelle stated that he is concerned with the use and the parking for the business, and the applicant informed that he has leased the two vacant lots to the north for parking.

Ms. White pointed out that, due to the fact that the building is not suited for residential use, a hardship does exist. She stated that she could support the application if parking is available.

Ms. Bradley remarked that there are no commercial uses in the area.

Mr. Jackere asked the applicant to state the term of the lease on the property across the street from the proposed business, and he replied that he has a two year lease on both the subject property and the lots across the street.

Case No. 14784 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-1-0 (Chappelle, Smith, White, "aye"; Bradley, "nay"; no "abstentions"; Quarles, "absent") to **APPROVE** a **Use Variance** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1213) to allow for commercial uses in an RM-1 zoned district; subject to the lease on the subject property running concurrently with the lease on the parking lot across the street to the north; finding that the structure in question has the appearance of a commercial building and is not suitable for a residence; and finding that other businesses have been in operation in the area and the granting of the variance request will not be detrimental to the area; on the following described property:

The north 100' of Lots 12 and 13, Block 11, Meadowbrook Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14785

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1207 - Request a special exception to allow for a duplex in an RS-3 zoned district.

Variance - Section 440.3(c) - Special Exception Requirements - Use Unit 1207 - Request a variance of lot frontage from 75' to 72', 1240 East Admiral Court.

Presentation:

The applicant, Daniel Dawson, 5420 East 113th Place South, Tulsa, Oklahoma, submitted a plot plan (Exhibit J-1) for a two story duplex that will be moved on the property at the above stated location. He informed that there is a duplex located to the south of the proposed location and another one in the immediate area.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1207) to allow for a duplex in an RS-3 zoned district; and to **APPROVE** a **Variance** (Section 440.3(c) - Special Exception Requirements - Use Unit 1207) of lot frontage from 75' to 72'; per plot plan submitted; finding a hardship demonstrated by the size of the tract and the corner lot location; finding that there are other duplexes in the area and the granting of the requests will not be detrimental to the neighborhood, but will be in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Lot 1 and the east half of Lot 2, Block 4, Fairmont Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14786

Action Requested:

Variance - Section 730.1 - Bulk and Area Requirements in Commercial Districts - Use Unit 1213 - Request a variance of setback from 25' to 10' on East 39th Street, located SE/c East 39th Street and South Harvard.

Presentation:

The applicant, Duane Lunger, was represented by Joe Wilkinson, 2702 South Gary Drive, Tulsa, Oklahoma, architect for the project. Mr. Wilkinson, who submitted a plot plan (Exhibit K-2) and photographs (Exhibit K-1), explained that he is an investor in the proposed retail center which will replace the building that is presently located on the property. He informed that the residential area begins approximately 100' to the east of the tract, and to the south is a 12' diagonal crossfall, which complicates construction on the lot.

Comments and Questions:

Ms. Bradley asked Mr. Gardner the distance from the proposed building to the curb, and he replied that the building would be 10' from the north property line, with an additional 10' to 12' to the curb.

Protestants:

Bill Clayburn, stated that he has leased and operated the auto parts business next door to the proposed center for approximately 25 years and is opposed to the application. He pointed out that his building is constructed at the 25' setback and if the center is built at the requested 10' setback, both the windows and the sign for his business will be obstructed.

Elda Pratt, 3909 South Gary Place, Tulsa, Oklahoma, stated that her back yard abutts Harvard and is across the street from the subject property. She stated that she would like to see the integrity of the neighborhood preserved, and asked what type of businesses will be located in the center.

Mr. Wilkinson explained that he does not know who the tenants will be, but the uses will be compatible with his wife's dress shop, which will occupy a portion of the space.

Ms. White informed that the use of the property will not be changed, and the only issue before the Board at this time is the request for a variance of the setback.

Nettie Singer, 3843 South Gary Place, Tulsa, Oklahoma, stated that she is also concerned with the type of business that will locate in the area.

Case No. 14786 (continued)

Applicant's Rebuttal:

Mr. Wilkinson stated that the view of the auto parts business will be partially hidden by the new construction, regardless of the setback.

Additional Comments:

Ms. Bradley asked Mr. Wilkinson to state the hardship for this request, and he replied that the primary concern is the installation of the retaining wall. He stated that he would like to have sufficient space to have a service drive around the building.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **DENY** a **Variance** (Section 730.1 - Bulk and Area Requirements in Commercial Districts - Use Unit 1213) of setback from 25' to 10' on East 39th Street; finding that the applicant failed to demonstrate a hardship that would warrant the granting of the variance request; on the following described property:

The west 140' of Lot 11, Block 5, Eisenhower 3rd Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14787

Action Requested:

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

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of the livability space per dwelling unit, located 3215 East 73rd Place.

Presentation:

The applicant, Steven Murphy, was represented by Anthony Billings, 3215 East 73rd Place, Tulsa, Oklahoma, owner of the property in question. He informed that his home has a two story garage which is attached by a breezeway. Mr. Billings asked the Board to allow the conversion of the upper story of the garage to living quarters for a housekeeper. A site plan (Exhibit L-1) was submitted.

Comments and Questions:

Ms. White asked Mr. Billings if he would object to the quarters being limited to maids quarters only, with no rental, and he replied that he does not object to that restriction.

Protestants: None.

Case No. 14787 (continued)

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206) to allow for two dwelling units on one lot of record; and to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of the livability space per dwelling unit; per plot plan submitted; subject to no rental of the dwelling over the garage; finding a hardship demonstrated by the size of the lot; and finding that the second dwelling unit is actually to be the maid's quarters, located in the second story of an existing garage; on the following described property:

Lot 10, Block 2, Guirwoods II Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14788

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Requests a special exception to allow for a mobile home in an RM-1 zoned district.

Variance - Section 440.6(a) - Special Exception Requirements - Use Unit 1209 - Request a variance of the time regulation from 1 year to permanently, located 2039 North Fulton Avenue.

Presentation:

The applicant, Wayne Caughie, was represented by Judy Riley, 5310 East Latimer Place, Tulsa, Oklahoma, who submitted a site plan (Exhibit M-1) and photographs (Exhibit M-2) and asked the Board to allow her to move her mobile home to the above stated location. She informed that there are mobile home parks to the east and west of the proposed site, and one mobile home located in the same block.

Comments and Questions:

Ms. Bradley noted that there is a creek behind the property.

Mr. Jones informed that the tract is located in a flood hazard area, according to INCOG maps.

Protestants: None.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a mobile home in an RM-1 zoned district; and to **APPROVE** a **Variance** (Section 440.6(a) - Special Exception Requirements - Use Unit 1209) of the time regulation from one year to five years; subject to Stormwater Management approval; finding that there are numerous mobile homes in the area, and that the granting of the requests will not be detrimental to the area; on the following described property:

Case No. 14788 (continued)

Lots 4 and 5, Block 18, Original Town of Dawson, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14789

Action Requested:

Use Variance - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1223 - Request a use variance to allow for an existing pipe supply company and related uses in an AG zoned district, located 17801 East 11th Street.

Presentation:

Michael Hackett, attorney for the applicant, E. P. Reddy, 17801 East 11th Street, Tulsa, Oklahoma, requested by letter (Exhibit N-1) that Case No. 14789 be continued to April 21, 1988. Mr. Hackett stated that he has just recently been retained by the applicant and needs additional time to prepare the case.

Board Action:

On **MOTION** of **SMITH,** the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **CONTINUE** Case No. 14789 to April 21, 1988, to allow counsel for the applicant sufficient time to prepare the case.

Case No. 14793

Action Requested:

Special Exception - Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1205 - Request a special exception to allow for an adult day care center in an OL zoned district, located 2116 - 2118 East 15th Street.

Comments and Questions:

Ms. White informed that she will abstain.

Presentation:

The applicant, Linda Hair, 2413 West Oklahoma Place, Tulsa, Oklahoma, submitted a packet (Exhibit P-1) describing the proposed center, and stated that she has been operating an adult day care center at another location for approximately 6 years. Ms. Hair informed that the center accommodates the elderly that can be dropped off for supervision during the daytime hours. She stated that some of their clients have Alzheimer's disease and some are stroke victims. It was pointed out by the applicant that these people are not dangerous, but some are confused and need security. She informed that the patrons of the center will be kept inside and will not be walking in the neighborhood. Ms. Hair stated that persons involved in drugs or alcohol or those will violent personalities will not be accepted for the program. She informed that the center is presently located at 31st and Sheridan.

Case No. 14793 (continued)

Comments and Questions:

Mr. Chappelle inquired as to the number of people served by the center, and the applicant replied that 65 people could be accommodated in the new 6133 sq. ft. facility, but the present number is 36.

Mr. Chappelle inquired as to the days and hours of operation for the business, and Ms. Hair replied that the center will be open from 7:00 a.m. to 6:00 p.m.

Ms. Bradley asked the applicant to state the number of staff required for the center, and she replied that there are presently 11 employees.

Ms. Hair pointed out that the parking lot to the rear of the building supplies 40 parking spaces and the maximum amount required for staff vehicles is 20 spaces. The applicant stated that there is a space for four cars to load and unload in front of the house.

Ms. Bradley noted that 50 vehicles, plus staff cars, could be visiting the site each morning.

Mr. Chappelle asked the applicant what type of building is located to the west of the proposed center, and she replied that a residence is located to the west and a house which has been converted to office use is located to the east.

Mr. Smith asked if the parking lot is paved, and the applicant answered in the affirmative.

Ms. Bradley pointed out to Ms. Hair that the house is located in an area that is designated as a Special District.

The applicant stated that she has spoken with the homeowners in the area and assured them that she is planning to have a beautiful facility that will be an asset to the neighborhood.

Protestants:

Georgean Dwyer, 2523 East 18th Street, Tulsa, Oklahoma, stated that she is on the PTA Board of Barnard Elementary School, which is located behind the subject property. She stated that she is very sensitive to the needs of the elderly and is not opposed to a center for the them, but is concerned with the traffic that will be generated in the neighborhood. Ms. Dwyer stated that there is no left turn permitted on 15th Street for northbound traffic on Lewis. She pointed out that motorists desiring to turn west on 15th Street are forced to travel through the neighborhood streets in order to get to their destination. She pointed out that the proposed center will only aggravate an existing traffic problem around the school.

Case No. 14793 (continued)

J. A. LaFortune, 3020 South Yorktown, Tulsa, Oklahoma, stated that he owns an office building approximately 200' to the east of the proposed center. He stated that a hospital type function is being proposed for an area that is predominately office use. Mr. LaFortune pointed out that the AAA Office and the Post Office generate a great amount of traffic and is opposed to any type business that will add to the existing traffic problem. He stated that the location of a health care center at the proposed location would destroy surrounding property values.

Ms. Bradley asked Mr. LaFortune if the Villa Teresa Daycare is located in the area, and he answered in the affirmative.

Don Austin, 1568 South Yorktown Place, Tulsa, Oklahoma, stated that the homeowners in the area met with Ms. Hair and it was determined at that meeting that the area residents would agree with the location of the center at the proposed location for a period of five years. He stated that he has changed his mind after hearing the case discussed at this time. Mr. Austin stated that the traffic on Yorktown is heavy and congested and cannot safely support a greater volume. He informed that cars unloading in front of the proposed center would create a traffic problem on 15th Street, as well as in the surrounding neighborhood. Mr. Austin asked the Board to deny the application.

Joe Braun, 1544 South Yorktown Place, Tulsa, Oklahoma, stated that he owns an office building at 1616 East 15th Street. He informed that he is opposed to the application because of the congestion in the area. Mr. Braun submitted a diagram (Exhibit P-2) of the adult daycare center at its present location and observed that 11 patients and five staff members arrived before 8:00 a.m. He voiced a concern that a traffic problem will occur in front of the proposed location during the unloading process, and become even greater as the number of patients increases.

Mary Preston stated that she lives next door to the proposed center and is not opposed to the use.

George Nowotny, 7226 South Gary Place, Tulsa, Oklahoma, stated that he represents the applicant as a real estate agent. He pointed out that traffic is a problem in the area, but the building could be used by right for an office space, which would generate more traffic than the proposed use. Mr. Nowotny stated that the area has many medical uses, but the adult day-care center is not similar to a hospital, as was suggested by one of the protestants. He suggested that there is no difference in the proposed adult day-care and the child day-care center which is successfully operating nearby. Mr. Nowotny pointed out that none of the houses along 15th Street are being sold for residences.

Florence Elliot, 2104 East 15th Street, Tulsa, Oklahoma, stated that the proposed operation is low-key and is the same type of business as the Villa Teresa Day-Care down the street.

Case No. 14793 (continued)

Applicant's Rebuttal:

Ms. Hair stated that the center is not a medical facility. She informed that the staff does make sure that medication is distributed as prescribed for the persons coming to the center, but no more than that. She pointed out that the exterior of the house will not change and the operation is very low-key. She asked the Board to approve the application.

Additional Comments:

Ms. Bradley asked Ms. Hair how the traffic will be directed if enrollment at the center reaches 50, and she replied that the arrivals will be staggered.

Mr. Chappelle voiced a concern with the congestion that could occur if the center experienced substantial growth. He noted that the bulk of the clients will arrive in the early morning, which would not be the case for law offices, insurance offices, and similar office uses.

Ms. Hair stated that the congestion could be partly remedied by better utilizing the services of the Tulsa Transit van.

Mr. Austin pointed out that the houses across the street where the child care center is located are set back further than the house in question.

Mr. Smith stated that he is concerned with the loading and unloading taking place in front of the building, and also the additional traffic that will be shifted into the surrounding neighborhood.

Ms. Hair stated that she could rearrange the back parking lot to allow the loading to take place in that area. She remarked that, after the meeting with the homeowners, it was her conclusion that the objection was not the traffic, but the participants in the center.

Mr. LaFortune stated that the school traffic and traffic to and from the center will be in the area at approximately the same time.

Mr. Gardner pointed out that the Board will have to consider the other uses in the area that generate traffic and determine if the proposed use is appropriate and consistent. He stated that traffic patterns, accessibility and intensity should be considered in making the determination.

Mr. Chappelle stated that he cannot support the application.

Case No. 14793 (continued)

Board Action:

On **MOTION** of **SMITH**, the Board voted 2-1-1 (Chappelle, Smith, "aye"; Bradley, "nay"; White, "abstaining"; Quarles, "absent") to **DENY** a **Special Exception** (Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1205) to allow for an adult day care center in an OL zoned district; finding that limited accessibility to the property from the major streets, due to the fact that left turns to the west on 15th are prohibited at the 15th and Lewis intersection, finding that the location of the building close to the street impacts the drop-off area, and finding that the expected increase in intensity of traffic at peak hours, cause the proposed adult day-care center to be incompatible with the surrounding neighborhood; on the following described property:

The west 25' of Lot 3, all of Lot 4 and the east 25' of Lot 5, Block 1, Maywood Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14794

Action Requested:

Use Variance - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1213 - Request a use variance to allow for a retail trade establishment (gifts, novelty items and souvenirs) in an RM-1 zoned district, located 2645 East 7th Street.

Presentation:

The applicant, M. F. Merchant, was represented by Attorney Robert Nichols, who requested by letter (Exhibit R-1) that Case No. 14794 be continued to April 21, 1988, due to a scheduling conflict.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **CONTINUE** Case No. 14794 to April 21, 1988, as requested by counsel for the applicant.

Case No. 14795

Action Requested:

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 7.66' to allow for an existing dwelling unit and a proposed addition and a variance of setback from South 70th East Avenue from 25' to 21' to allow for an existing dwelling, located 7510 South 70th East Avenue.

Presentation:

The applicant, Ted Larkin, 9901 South Sandusky, Tulsa, Oklahoma, submitted a plot plan (Exhibit S-1), and stated that he is architect for the project. He informed that the existing house is located on a triangular shaped lot and both the front and back of the house encroach into the required setback. Mr. Larkin informed that the new addition will not protrude any further into the setback than the existing house.

Case No. 14795 (continued)

Protestants: None.

Board Action:

On **MOTION** of **WHITE,** the Board voted 3-0-1 (Bradley, Chappelle, White, "aye"; no "nays"; Smith, "abstaining"; Quarles, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of the rear yard setback from 20' to 7.66' to allow for an existing dwelling unit and a proposed addition and a variance of setback from South 70th East Avenue from 25' to 21' to allow for an existing dwelling; per plan submitted; finding a hardship imposed on the applicant by the triangular shape of the lot; and finding that the proposed addition will not encroach further into the setback than the existing dwelling; on the following described property:

Lot 29, Block 2, Valley South Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 14553

Action Requested:

Approval of revised site plan.

Presentation:

Roger Coffey stated that the Board approved a previous site plan for the St. James United Methodist Church. He explained that the church understood from that meeting that they could change the configuration of the building as long as parking was provided according to the plan. He informed that the size of the building is approximately the same as the previous plan. Mr. Coffey stated that they applied for a building permit and it was pointed out to them that any changes in the original plot plan would require Board action. He asked the Board to approve a revised plan (Exhibit T-1).

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 4-0-0 (Bradley, Chappelle, Smith, White, "aye"; no "nays"; no "abstentions"; Quarles, "absent") to **APPROVE** the revised site plan as submitted.

There being no further business, the meeting was adjourned at 4:10 p.m.

Date Approved 4-21-88

Chairman

04.07.88:512(22)