CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 524
Thursday, October 6, 1988, 1:00 p.m.
Francis F. Campbell Commission Room
Plaza Level of City Hall, Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, October 4, 1988, at 12:43 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 1:00 p.m.

MINUTES:

On **MOTION** of **SMITH**, the Board voted 3-0-1 (Bradley, Chappelle, Smith, "aye"; no "nays"; Quarles, "abstaining"; White, "absent") to **APPROVE** the Minutes of September 15, 1988.

On **MOTION** of **BRADLEY**, the Board voted 3-0-1 (Bradley, Chappelle, Smith, "aye"; no "nays"; Quarles, "abstaining"; White, "absent") to **APPROVE** amended minutes for BOA Case No. 14777.

UNFINISHED BUSINESS

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 interpretation of the term "non-illuminated background" as it appears in the term "display surface area", located 3727 South Memorial Drive.

Comments and Questions:

Mr. Gardner stated that this application, along with another item, has been continued for several months awaiting the completion of amendments to the Zoning Code concerning signs, specifically back lighted awning type signs. He informed that, after discussion with

Case No. 14575 (continued)

legal counsel, one item was stricken by the Board at the previous meeting, and the other item continued to this date. Mr. Gardner stated that one application was for a variance and the other was requesting an interpretation of the term "non-illuminated background" as it appears in the term "display surface area". He stated that the wrong application may have been stricken, and pointed out that the Board will have to make a determination as to whether a variance is necessary to grant the relief sought (continued use of existing back lighted awning sign). Mr. Gardner felt that the notice was broad enough to consider a variance since the surrounding property owners were notified that the applicant wanted to keep the present sign regardless of the relief necessary to accomplish this purpose.

The applicant, Michael Hackett, 1443 South Norfolk Avenue, Tulsa, Oklahoma, pointed out that the physical changes regarding signage at 37th and Sheridan have changed significantly and referred to the photographs submitted (Exhibit A-1). He stated that Chris Nikel owns a small retail shopping center at the above stated location, which has space for three tenants and his used car operation. Mr. Hackett stated that it was originally planned to put up lettering on a mansard wood roof that extended from the side of the building, but structural steel supports extended to the edge of the roof, which prevented lettering only. It was noted by the applicant that his client then decided to attach the letters to a vinyl awning that has lighting from the back. Mr. Hackett informed that some of the panels have been changed to reduce the amount of illumination and asked the Board to approve the sign as shown in the photographs supplied.

Additional Comments:

Mr. Gardner pointed out that the photographs presented today and those presented at the previous hearing are quite different in that there was no doubt that the lighting in the previous photographs was so intense that the entire awning became a sign, while the lighting has now been reduced to make the awning less transparent.

Ms. Bradley stated that the entire awning continues to be lighted, and Mr. Gardner pointed out that the intensity of the lighting has been reduced so that the night time appearance of the sign more nearly resembles its daytime appearance.

Mr. Hackett pointed out that spot lights could be positioned in front of the sign to focus on the lettering as a matter of right.

There was discussion as to whether the Board could make an interpretation of the term "non-illuminated background", or if a variance is required.

Case No. 14575 (continued)

Mr. Jackere advised that the Board does not have the jurisdiction to make an interpretation unless it accompanies an appeal.

Based on the information supplied by counsel, Mr. Gardner stated that a variance will be required.

Mr. Jackere informed that if there is a hardship because of some peculiarity of the property, conditions can be imposed that are appropriate to protect the public. He stated that the ordinance is clear and states that the entirety of the illuminated background of a sign is part of the display surface area.

Mr. Quarles pointed out that a hardship is imposed on Mr. Hackett's client by the construction of the building with steel framework jutting out from the roof, and that he is supportive of the variance if the applicant can assure the Board that the degree of sign illumination will be no greater than is depicted in the photographs submitted.

Mr. Gardner stated that, if the Board is inclined to approve the application, the approval can be made subject to the measurement of illumination being no greater than the present degree of lighting. He remarked that the present measurement can be determined by a qualified person in that field.

Mr. Hackett noted that the Circle K store to the north has an illuminated color band around the top of the building.

Mr. Smith asked Mr. Jackere if it is the responsibility of this Board to waive ordinances passed by the City Commission, and he replied that a variance waives the city ordinances if a hardship is demonstrated by the applicant.

Protestants: None.

Board Action:

On **MOTION** of **SMITH**, the Board voted 3-1-0 (Chappelle, Quarles, Smith, "aye"; Bradley, "nay"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 1221.4 - CS District Use Conditions for Business Signs - Use Unit 1221) of the size of wall and canopy signs; subject to the degree of illumination from the back lit awning type sign being no greater than one lumen, as depicted in the photographs submitted (Exhibit A-1); finding a hardship demonstrated by the construction of the building, with a network of steel bracing on the roof protruding toward the front of the structure; on the following described property:

Lot 2, Block 1, Memorial Plaza Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14935

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a minor variance of setback from the centerline of Birmingham Avenue from 50' to 45' to allow for an addition to an existing dwelling, located 2402 North Birmingham Avenue.

Presentation:

The applicant, Lisa Warford, 2402 North Birmingham, Tulsa, Oklahoma, who submitted a plot plan (Exhibit B-2) and photographs (Exhibit B-1), stated that an old porch has been removed from an existing house and a new room is proposed. She informed that her home is located on a dead end street.

Comments and Questions:

Ms. Bradley asked if North Birmingham Street is dedicated, and Ms. Hubbard informed that the atlas shows Birmingham to have a 40' dedication at this location.

Protestants: None.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of setback from the centerline of Birmingham Avenue from 50' to 45' to allow for an addition to an existing dwelling; per plot plan submitted; finding that the subject property abutts a railroad track to the rear, and that Louisville is a dedicated street, but is not in use at this location; on the following described property:

That part of the SE/4, NW/4, NW/4, Section 29, T-20-N, R-13-E, Tulsa County, State of Oklahoma, according to the US Government Survey thereof, described as follows: Beginning at a point 1147.5' east of the SW/c of the N/2 of the NW/4 of said Section 29, said point of beginning being 127.5' east of the center of Atlanta Court; thence east 127.5' along and parallel to the north City Limits to a point, said point being the center of Birmingham Avenue; thence north 526' to the south boundary of the AT & SF Railway Company's right-of-way; thence southwesterly and parallel to the said ROW, a distance of 169' to a point, thence south a distance of 413' to the point of beginning, less easement for public street and roadway over and across the east 20' thereof, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14939

Action Requested:

Variance - Section 1221.5 - Use Conditions for Business Signs - Use Unit 1221 - Request a variance of the size of a sign to allow for an existing 26' 10" by 6' electric awning sign (156.5 sq. ft.).

Presentation:

The applicant, Mike Moydell, 1212 West 3rd Street, Tulsa, Oklahoma, submitted photographs (Exhibit C-1), and explained that the awning sign in question has two light sources, with both overhead and interior illumination, and is built to comply with Little Caesar's Pizza franchise specifications.

Comments and Questions:

Mr. Gardner asked the applicant to state the height of the sign, and Mr. Moydell replied that the entire awning is 6' tall with 24" lettering.

In response to Mr. Quarles question as to the excess amount, the applicant informed that there is 88' of signage on the east side which wraps around 25', or approximately 20' over the allowed amount.

Mr. Gardner noted that the applicant would be allowed to install 3' tall letters if the awning was not illuminated.

Mr. Smith remarked that the Board has recently approved a similar sign, and Mr. Gardner stated that a similar application was heard by the Board approximately 30 days ago, but the brightness of the lighting could be a key factor in determining if the background is also a part of the sign.

Ms. Bradley asked the applicant to state the hardship for the variance request, and he replied that the building does not have a pleasing appearance and needs to be covered.

The applicant asked if the sign would be more acceptable to the Board if the overhead lighting was turned off.

Mr. Quarles stated that an economic hardship cannot be considered by this Board.

Mr. Gardner remarked that the overhead lighting is allowed by right if the lighting behind the awning is removed.

Mr. Chappelle stated that he would be supportive of the application if the overhead lighting was turned off.

Protestants: None.

Board Action:

Mr. Smith's motion for approval of the application, subject to the removal of the lighting beneath the roof overhang, died for lack of a second.

Case No. 14939 (continued)

On **MOTION** of **QUARLES**, the Board voted 2-2-0 (Bradley, Quarles, "aye"; Chappelle, Smith, "nay"; no "abstentions"; White, "absent") to **DENY*** a **Variance** (Section 1221.5 - Use Conditions for Business Signs - Use Unit 1221) of the size of a sign to allow for an existing 26' 10" by 6' electric awning sign (156.5 sq. ft.).; finding that the applicant failed to present a hardship that would warrant the granting of the variance request; on the following described property:

The south 260' of the west 240' of the W/2, Lot 2, less the west 50' and south 60' thereof, Section 2, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

*The application failed for lack of three affirmative votes.

MINOR VARIANCES AND EXCEPTIONS

Case No. 14950

Action Requested:

Variance - Section 207 - Street Frontage Required - Use Unit 1206 - Request a minor variance of frontage on a public street from 30' to 9' to allow for a lot split, located 3219 South Birmingham.

Presentation:

The applicant, Dan Tanner, 1400 South Boston Avenue, Tulsa, Oklahoma, requested by letter (Exhibit D-1) that Case No. 14950 be withdrawn.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Smith, Quarles, "aye"; no "nays"; no "abstentions"; White, "absent") to **WITHDRAW** Case No. 14950 as requested by the applicant.

NEW APPLICATIONS

Case No. 14940

Action Requested:

Appeal - Section 1650 - Appeal from the Decision of Building Inspections - Use Unit 1206 - Request an appeal from the decision of the Building Inspector that a skateboard ramp is not a customary accessory use in a residential district.

Variance - Section 420.1 - Accessory Uses in Residential Districts - Use Unit 1206 - Request a variance to allow for a skateboard ramp as an accessory use in a residential district, located 6809 East 108th Street.

Case No. 14940 (continued)

Presentation:

The applicant, Robert Ford, 6809 East 108th East Avenue, Tulsa, Oklahoma, stated that his children have become interested in skateboarding and launch ramps were constructed in the back yard. He noted that they became more skilled at the sport and constructed larger ramps, with the present ramp being approximately 6' in height and screened from the street by a privacy fence. Mr. Ford stated that a small portion of one neighbor's back yard is visible from the top of the ramp. Photographs (Exhibit E-5) were submitted. Records (Exhibit E-1) containing an application for a Building Permit, a letter from the Chief Residential Inspector and a plot plan, were submitted to the Board.

Comments and Questions:

Ms. Bradley asked the applicant to state the height of the privacy fence, and he replied that the fence is the same height as the ramp, or 6' tall.

Mr. Chappelle inquired as to the number of children that use the ramp and the amount of noise generated, and Mr. Ford replied that there are three or four boys using the ramp at any given time. The applicant stated that a Judge came to his home in order to evaluate the sport and she determined that there was not enough noise generated to cause a problem for surrounding neighbors. Mr. Ford stated that she did restrict the hours for using the ramp.

Mr. Jackere informed that the Board should consider only the Zoning Code provisions as relates to this application.

Mr. Ford stated that a lawsuit was filed against him in 1988 for removal of the ramp, but the Judge determined that the ramp was not a problem in the neighborhood and suggested hours for use.

Ms. Bradley advised the applicant that the Board cannot consider the court action or restrictive covenants.

Protestants:

John Moody, 7666 East 61st Street, Suite 240, Tulsa, Oklahoma, stated that he is representing Ms. Kaplen and the Forest Trails Homeowner's Association, and that the skateboard ramp at this location is not appropriate. He submitted photographs (Exhibit E-2) and explained that the structure has been constructed immediately adjacent to the property line and is 33' long and 8' high. It was noted by Mr. Moody that the ramp is taller than the fence and is equipped with lawn chairs which allows those waiting on the platform to have full view of his client's house and garage. He stated that the structure is unsightly and noisy, as well as being a nuisance, and is not a customary accessory use for this neighborhood. It was emphasized by Mr. Moody that skateboarding is not restricted to Mr. Ford's children and submitted a copy of a risk agreement (Exhibit E-3) which has been drawn up by the applicant and is to be signed by the parents of those using the ramp. Mr. Moody stated that the ramp has become a commercial use that draws skateboarders to the location. A location map (Exhibit E-4) was submitted.

Case No. 14940 (continued)

Nine property owners (Exhibit E-6) were present to oppose the application.

Additional Comments:

Mr. Quarles asked Mr. Moody if he is alleging that this is a commercial activity, and he stated that he is alleging that it is in the same nature as a commercial skateboard ramp, due to the fact that people come from miles away to use it. He pointed out that the applicant has not demonstrated a hardship that would warrant the granting of the variance request, and asked the Board to deny the application.

Mr. Quarles pointed out that there was a first swimming pool, trampoline, etc., and that he would have trouble finding that a skateboard ramp, which was designed for children and their guests, to be anything other than a customary accessory use. He stated that if the situation arises where the use is too large or too noisy, it is a matter for action outside this Board.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-1-0 (Bradley, Chappelle, Smith, "aye"; Quarles, "nay"; no "abstentions"; White, "absent") to **UPHOLD** the **DECISION** of the Building Inspector (Section 1650 - Appeal from the Decision of Building Inspections - Use Unit 1206) that a skateboard ramp is not a customary accessory use in a residential district; and to **DENY** a **Variance** (Section 420.1 - Accessory Uses in Residential Districts - Use Unit 1206) to allow for a skateboard ramp as an accessory use in a residential district; finding that a skateboard ramp, as presented, is not a customary accessory use in the residential district; and that the granting of the request would be detrimental to the neighborhood; on the following described property:

Lot 7, Block 5, Forest Trails Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14942

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1224 - Request a special exception to allow for a sand business only (located within the banks of the Arkansas River) in an AG zoned district, located 11300 South Delaware Avenue.

Presentation:

The applicant, Ray Crawford, 6733 South 72nd East Avenue, Tulsa, Oklahoma, was represented by Bob Nichols, 111 West 5th Street, Tulsa, Oklahoma. Mr. Nichols informed that the owner is currently under contract to sell the property to an individual that is proposing to operate a sand business, which would consist of

Case No. 14942 (continued)

dredging sand from the Arkansas River. He stated that a previous request for the operation of a concrete plant and dirt business was denied by this Board in May of this year. Mr. Nichols explained that the previous case has been appealed to District Court, but this application deals only with the extraction of sand from the river.

Comments and Questions:

Ms. Bradley pointed out that approximately five acres of property is under application and asked Mr. Nichols if the legal could be amended to restrict the operation to the river and river bank only. He replied that his client will be removing sand from the river, but the loading of trucks will occur on the bank, and that his client is agreeable to restricting the operation to those areas. Mr. Nichols stated that 10 to 15 truck loads of sand will be removed from the river each day.

Mr. Gardner informed that a legal description could be prepared that would designate the actual portion of the property that will be used for the sand removal operation.

There was discussion concerning the pending appeal, and Mr. Nichols stated that he was not involved in the appeal process, but it is his understanding that upon approval of this application, Mr. Crawford will convey the property to the new owner and dismiss the appeal.

Mr. Smith asked Mr. Nichols if dirt will be extracted from the property, and he replied that dirt will not be removed from the site.

Protestants:

G. W. Newton, 4332 South Troost Place, Tulsa, Oklahoma, stated that he is representing the abutting property owner, Southeast Leasing Corporation. He pointed out that a plot plan is not available for review, and the hours of operation have not been stated. Mr. Newton emphasized that mining operations in the area are a traffic hazard, as well as a health hazard, and that everyone might have a different opinion as to how far the river bank would extend. It was noted by the protestant that some type of paving may be required for the driveway to the loading site.

Additional Comments:

Mr. Jackere advised that the major protests at the previous hearing concerning this tract was the excavating of soil, and if there is an opposition to the dredging operation, it should be voiced at this time.

Mr. Nichols stated that the road to the property has an all-weather surface and the hours of operation can be limited to those between daylight and dusk.

Mr. Smith asked if the land that was involved in the mining operation has been restored, and Mr. Nichols replied that the holes have been filled and the land has been restored to its natural state.

Case No. 14942 (continued)

Ms. Bradley asked Mr. Gardner if the Master Plan calls for residential development in this area, and he replied that it is planned for residential development sometime in the future.

Mr. Nichols pointed out that there is a severe drainage problem in the area at this time and development would not be feasible in the near future.

Applicant's Rebuttal:

Mr. Nichols pointed out that various types of dredging and dirt operations have been conducted in the area for approximately 30 years, with the heaviest type of activity being conducted in the past two years. He pointed out that the applicant has never had a complaint filed, but he previously made application to the Board to ensure that the operation could be conducted on the property. Mr. Nichols stated that he had planned to sell the property, but that sale was not completed because of the previous denial.

Board Action:

On **MOTION** of **QUARLES**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal Uses Permitted in Agriculture Districts - Use Unit 1224) to allow for a sand dredging business only (located within the banks of the Arkansas River) in an AG zoned district; per revised legal description deleting all property east of the "river bank" from this application; subject to no mining of dirt on the property; and subject to days and hours of operation being Monday through Saturday, daylight to dusk; finding that numerous similar operations have been conducted on the property for many years, and that the sand dredging business will not be detrimental to the area; on the following described property:

Lot 6 and the SE/4, NE/4, Section 32, T-18-N, R-13-E, and the N/2, SW/4, NW/4, Section 33, T-18-N, R-13-E, Tulsa County, Oklahoma.

Case No. 14943

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1215 - Request a special exception to allow for the wholesale manufacturing of sandwiches in a CS zoned district, located 1719 North Lewis Avenue.

Presentation:

The applicant, Tom Coleman, 4410 Lindley Drive, Claremore, Oklahoma, stated that the building at the above stated location has previously been used for a fast food restaurant, and asked the Board to allow a wholesale operation on the property. Mr. Coleman informed that the business will prepare food for convenience stores.

Case No. 14943 (continued)

Comments and Questions:

Mr. Jackere asked if the product will be delivered, and the applicant answered in the affirmative. In response to Mr. Jackere's inquiry as to the size of the delivery trucks, Mr. Coleman stated that the trucks are 3/4-ton, with a 4' by 6' refrigerator box.

Mr. Quarles asked if this is a canteen type operation, and the applicant stated that it is a similar business. He informed that he has been operating a similar type business across the street for approximately 25 years.

Ms. Bradley inquired as to the number of delivery trucks used in the business, and the applicant replied that the business only has one truck at this time, but may have four by the end of the year.

In response to Ms. Bradley's question, the applicant informed that the days and hours of operation will be Monday through Friday, 4:30 a.m. to 3:00 p.m.

Protestants: None.

Board Action:

On **MOTION** of **SMITH,** the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1215) to allow for the wholesale manufacturing of sandwiches in a CS zoned district; finding that the applicant has been operating a similar business across the street from the proposed location for many years; and that the sandwich manufacturing business will not be detrimental to the area, and will be compatible with the surrounding uses; on the following described property:

Lot 486, Block 38, Tulsa Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14944

Action Requested:

Variance - Section 320.2(b) - Accessory Use Conditions - Use Unit 1221 - Request a variance of sign height, a variance of permitted square footage and a variance to allow two electronic message centers and identification signs.

Variance - Section 1221.3(b4) - Use Conditions for Business Signs - Use Unit 1221 - Request a variance to allow a flashing sign with greater than 25 watt bulbs, located north and east of NE/c 71st and Memorial.

Case No. 14944 (continued)

Presentation:

The applicant, Amy Jones, 2930 West 9th Avenue, Denver, Colorado, was represented by Roy Johnsen, 324 Main Mall, Tulsa, Oklahoma, attorney for the applicant. Mr. Johnsen submitted photographs (Exhibit F-2) and a sign plan (Exhibit F-1) for an electronic message center proposed for two entrances at Woodland Hills Mall. He noted that one sign will be located on Memorial Drive, and one will be installed at the second entry going east on 71st Street from the Memorial intersection. Mr. Johnsen explained that the mall property has multiple zoning classifications, with the landscaped part being in the AG zoned area, the parking in the OL portion and CG zoning where the building is constructed. He noted that there are existing 4' high ground signs in the OL district where the new electronic message signs will be installed, and that the height limitation for signs in this area is 20' and the display surface limitation is .2' for each foot of street frontage. He stated that each of the proposed signs will be 24' in height and will contain 190' of display surface area, with the electronic portion being 5 1/2' by 12 1/2', or approximately 70 sq. ft. Johnsen pointed out that there are billboards two stacks high located on the CS property on the northeast corner of the 71st and Memorial intersection, which is not a part of the mall. It was noted that the height limitation for signs in this CS area is 30'.

Comments and Questions:

Mr. Gardner asked if the message on the sign will flash or have a rapid change rate, and Mr. Johnsen replied that the message can change one time each six seconds, but does not flash, and that his client would be in agreement with that condition being imposed. He informed that the requested relief for bulbs greater than 25 watts is no longer needed, as all bulbs on the signs will be either 25 watts or less.

Mr. Gardner pointed out that controlling the speed of the message change will control the flashing aspect of the sign. He explained that normally the entire 150 acre tract where the mall is located would have been zoned commercial if the development had been in conformance with the Comprehensive Plan. He noted that the OL portion was never intended for office use, but was strictly for parking purposes, so if the entire shopping center had been zoned commercial, the signs in question would be allowed by right.

Mr. Quarles remarked that Woodland Hills is a major regional shopping mall and it is important that people coming from outlying areas be able to easily identify the entrances.

Case No. 14944 (continued)

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 320.2(b) - Accessory Use Conditions - Use Unit 1221) of sign height, a variance of permitted square footage and a variance to allow two electronic message centers and identification signs; and to **APPROVE** a **Variance** (Section 1221.3(b4) - Use Conditions for Business Signs - Use Unit 1221) to allow a flashing sign; per plot plan submitted; subject to the flashing sign being controlled to cycle no more than one time each five seconds; finding a hardship demonstrated by multiple zoning classifications on the property; and finding that there are numerous large signs in the area and a sign at the requested height (24') would be allowed by right in the CS zoned property to the north and south of the subject tract; on the following described property:

A part of Lot 1, Block 1, Woodland Hills Mall Addition, City of Tulsa, Tulsa County, State of Oklahoma being described as: Beginning at the SW/c of Section 1, T-18-N, R-13-E, thence north 850' to the Point of Beginning, thence east 150', north 100', west 150', south 100' to the Point of Beginning at the SW/c of Section 1, T-18-N, R-13-E, thence east 1,850' to the Point of Beginning, thence north 150', east 100', south 150', west 100' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14945

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of setback from the east property line from 20' to 10' and from the north property line from 10' to 4' to allow for reconstruction of a dwelling, located 701 North Cheyenne.

Presentation:

The applicant, Gerald Angus, PO Box 50045, Tulsa, Oklahoma, who submitted a plot plan (Exhibit G-3) and photographs (Exhibit G-1), explained that the house in question was damaged by fire and is to be reconstructed. He stated that he also owns the house to the north of the subject tract. Mr. Angus informed that most of the damage was confined to the upper story of the house.

Comments and Questions:

Mr. Chappelle asked Mr. Angus if the existing foundation will be used, and he answered in the affirmative.

Ms. Bradley asked the applicant if he resides in the house, and he replied that he does not live in the house, but will either rent or sell it when the work is completed.

Mr. Gardner pointed out that the applicant has stated that all construction will be on the existing foundation.

Case No. 14945 (continued)

Protestants:

One letter of protest (Exhibit G-2) was received by Staff and submitted to the Board.

Board Action:

On **MOTION** of **SMITH**, the Board voted 3-0-1 (Bradley, Chappelle, Smith, "aye"; no "nays"; Quarles, "abstaining", White, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of setback from the east property line from 20' to 10' and from the north property line from 10' to 4' to allow for reconstruction of a dwelling; per plot plan submitted; subject to all construction being on the existing foundation; finding that there are numerous homes in the older addition that encroach into the required setback, and that the house in question will merely be restored to its former condition; on the following described property:

The west 80' of Lot 7, Block 13, Burgess Hill Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14946

Action Requested:

Variance - Section 930 - Bulk and Area Requirements in Residential Districts - Use Unit 1223 - Request a variance of setback from the centerline of 4th Street from 55' to 45' and from the centerline of Rockford Avenue from 55' to 50', located 1443 East 4th Street.

Presentation:

The applicant, Ray Conard, 2725 South Memorial, Tulsa, Oklahoma, submitted a plot plan (Exhibit H-1) for proposed construction at the above stated location. He pointed out that all of the buildings in the area have been built on the property line. Mr. Conard informed that the building will be 30' by 70'.

Comments and Questions:

Ms. Hubbard pointed out that the applicant must have required parking on the lot of use or obtain a variance from this Board. She noted that he has 16' on which to park, but the parking layout is mostly in the right-of-way.

Mr. Conard stated that the City Engineer has approved the parking layout.

Mr. Smith suggested that the Board act on the variance that has been advertised and allow the applicant to return if further relief is needed.

Ms. Hubbard informed that she has just recently received the plans and has not had an opportunity to review them.

Case No. 14946 (continued)

Board Action:

On **MOTION** of **SMITH**, the Board voted 3-0-1 (Bradley, Chappelle, Smith, "aye"; no "nays"; Quarles, "abstaining"; White, "absent") to **APPROVE** a **Variance** (Section 930 - Bulk and Area Requirements in Residential Districts - Use Unit 1223) of setback from the centerline of 4th Street from 55' to 45' and from the centerline of Rockford Avenue from 55' to 50'; and **CONTINUE** any additional relief required by the Building Inspector; per plot plan submitted; finding that numerous buildings in the area have been constructed on the lot line; and finding a hardship imposed on the applicant by the corner lot location and required setbacks from two streets; on the following described property:

The south 85' of Lot 22, Block 18, Lynch and Forsythe Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14947

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow for a day care center in an RS-3 zoned district, located 105 West 50th Place North.

Presentation:

The applicant, Harvey Walker, 614 East 59th Place, Tulsa, Oklahoma, asked the Board to approve the operation of a day care center at the above stated location. One letter of support (Exhibit J-1) was submitted by the applicant.

Comments and Questions:

Ms. Bradley asked if the day care center to the southeast is still in operation, and Mr. Walker stated that it is no longer in operation and the house is being used as a residence.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205) to allow for a day care center in an RS-3 zoned district; finding that a day care center has previously been in operation in the neighborhood; and that the granting of the request will not be detrimental to the area and will be in harmony with the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

Lot 24, Block 8, Valley View Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14948

Action Requested:

Variance - Section 1221.5 - Use Conditions for Business Signs - Use Unit 1221 - Request a variance to allow for a 785 sq. ft. sign in an IL zoned district, located 3312 - 3332 South Memorial Drive.

Presentation:

The applicant, Kelly McNew, 1841 East 15th Street, Tulsa, Oklahoma, stated that he has a billboard on his property at the above stated location, and asked the Board to permit him to attach a lighted sign on the same pole. A sign plan (Exhibit K-1) was submitted.

Protestants:

Gary Evans, 3357 South 139th East Avenue, Tulsa, Oklahoma, general manager of Chrysler/Plymouth, located at 3350 South Memorial, asked the Board to deny the application. He pointed out that there are numerous signs in the area, one of which is a stacked billboard, and emphasized that the additional sign on the pole will be unsightly and restrict the view of motorists at that location.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **DENY** a **Variance** (Section 1221.5 - Use Conditions for Business Signs - Use Unit 1221) to allow for a 785 sq. ft. sign in an IL zoned district; finding that the applicant failed to present a hardship that would warrant the granting of the variance request; on the following described property:

> Beginning at a point 150' south and 50' west of the NE/c, of the N/2, of the SE/4, of the NE/4, Section 23, T-19-N, R-13-E, Tulsa County, Oklahoma; thence south parallel with the east line of said section a distance of 150' to a point; thence west 250' to a point; thence north 150.22'; thence S 89°57'00" E a distance of 250' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14949

Action Requested:

Special Exception - Section 410 and 710 - Principal Uses Permitted in Residential and Commercial Districts - Use Unit 1202 - Request a special exception to allow for a temporary tent revival (brush arbor), located south of SW/c North Mingo and East Newton Street.

Presentation:

The applicant, Daniel Phillips, 1229 North 94th East Avenue, Tulsa, Oklahoma, submitted photographs (Exhibit L-2) of the church property and the surrounding area, and asked the Board to allow the church to erect a tent and conduct a nighttime revival. He informed that there is adequate lighting and parking on the church property, and the tent will be close enough to the building to use the restrooms there. A drawing (Exhibit L-1) was submitted.

Case No. 14949 (continued)

Comments and Questions:

Ms. Bradley asked the applicant to estimate the number of people that will attend the revival, and Mr. Phillips replied that between 100 and 200 are expected to attend.

Mr. Chappelle inquired as to the dates and time for the services, and the applicant replied that the revival has been scheduled from October 12 to October 23, 7:00 p.m. to 9:00 p.m.

Board Action:

On **MOTION** of **QUARLES**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 410 and 710 - Principal Uses Permitted in Residential and Commercial Districts - Use Unit 1202) to allow for a temporary tent revival (brush arbor); subject to outside church services being held between October 12th and October 23rd, 7:00 p.m. to 10:00 p.m.; finding that the granting of the temporary request for outside church services will not be detrimental to the area; on the following described property:

The NE/4, SE/4, NE/4, LESS the north 198', Section 36, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14951

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Residential Districts - Use Unit 1217 - Request a special exception to allow for Use Unit 17 (automotive uses) in a CS zoned district.

Variance - Section 730 - Bulk and Area Requirements In Commercial Districts - Use Unit 1217 - Request a variance of setback from the centerline (of the street to the east) from 50' to 30'.

Variance - Section 1217.3(b) - Use Unit 1217 - Use Conditions - Request a variance to allow the open air storage and display of merchandise for sale within 300' of an R District.

Variance - Section 1217.4 - Off-Street Parking and Loading Requirements - Use Unit 1217 - Request a variance of parking requirements from 10 spaces to 5 spaces, located east of NE/c 11th and 107th East Avenue.

Presentation:

The applicant, George Hiles, 9159 East 38th Street, Tulsa, Oklahoma, stated that he was under the impression that his business would be a use in Use Unit 15 when the original plans for his building were drawn. He explained that it was later determined that the business was under Use Unit 17 and the site plan has now been revised to meet all requirements except outside storage. Mr. Hiles informed that he is currently operating a business at another location that deals in

Case No. 14951 (continued)

the sale of pickup camper shells and accessories (Exhibit M-2). He stated that he is proposing to buy the property in question and move his business. A packet (Exhibit M-1) containing a plot plan and letters from Stormwater Management and Traffic Engineering was submitted.

Comments and Questions:

Mr. Gardner informed that the first variance deals with the racks that will display the camper shell, rather than a building that will be built at this setback.

After reviewing the revised plans, Ms. Hubbard stated that the applicant is no longer in need of the variance requesting setback relief from the street to the east, or the variance of parking requirements.

Ms. Bradley asked if the racks will be located on the west side of the property, and Mr. Hiles stated that they will be located on all sides of the lot.

Ms. Bradley asked what is included in the accessory sales business, and the applicant informed that he sells running boards, sliding truck windows, bumpers, etc.

Interested Parties:

The resident at 10883 1/2 East 11th Street stated that she attended the meeting to see what was proposed for the lot, and that she has no objection to the camper sales business on the subject property. She remarked that a portion of the property does receive flood water during extreme rainy seasons.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 710 - Principal Uses Permitted in Residential Districts - Use Unit 1217) to allow for Use Unit 17 (automotive uses) in a CS zoned district; and to **APPROVE** a **Variance** (Section 1217.3(b) - Use Unit 1217 - Use Conditions) to allow the open air storage and display of merchandise for sale within 300' of an R District; per site plan submitted; subject to Traffic Engineering approval for the location of storage racks on the north and east sides of the property; and subject to the sales business being limited to pickup camper shells and accessories; finding that the original plot plan has been revised and the variance of setback from the street to the east and the variance of parking requirements is no longer needed; and that the business will be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

Case No. 14951 (continued)

The S/2 of Lot 8, Block 2, East 11th Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

The applicant stated that the property is of no value to him if he is required to display the camper shells 50' from the street, and it was pointed out by the Board members that they have no problem with the location of the shells 30' from the centerline if Traffic Engineering approves the location.

Mr. Gardner suggested to the applicant that he could delay the closing of the real estate transaction until Traffic Engineering has approved the location of the camper shells.

Case No. 14952

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1202 - Requests a special exception to allow for an outdoor Christmas tree sales lot in a CS zoned district, located SE/c 41st Street and Harvard Avenue.

Presentation:

The applicant, Southwest Nursery, 5401 West Skelly Drive, Tulsa, Oklahoma, was represented by Bill Manley, 3111 East 58th Place, Tulsa, Oklahoma, who requested permission to sell Christmas trees on the southeast corner of 41st and Harvard. He informed that sales have been conducted yearly at this location for the past 37 years.

Board Action:

On **MOTION** of **SMITH**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1202) to allow for an outdoor Christmas tree sales lot in a CS zoned district for the 1988 season; finding that the temporary sales operation has been conducted yearly at this location for many years and has proved to be compatible with the area; on the following described property:

Lot 1, Block 1, Villa Grove Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 14953

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of setback from the west property line (Union Avenue) from 25' to 3' to allow for a detached accessory building, located 324 North Tacoma Avenue.

Case No. 14953 (continued)

Presentation:

The applicant, John Uncapher, 324 North Tacoma, Tulsa, Oklahoma, submitted a plot plan (Exhibit N-2) and photographs (Exhibit N-1) and requested permission to reconstruct a greenhouse that was destroyed by fire. The applicant pointed out that he will be forced to sacrifice his garden area, remove a tree and many shrubs if the structure is constructed at the required setback.

Comments and Questions:

Mr. Gardner asked the applicant if his house faces Tacoma Street, with the back yard on Union Avenue, and he answered in the affirmative.

Mr. Gardner advised that the applicant has a double lot and would be allowed to build within 3' of the property line if the back yard was not abutting a public street.

Protestants: None.

Board Action:

On **MOTION** of **QUARLES**, the Board voted 4-0-0 (Bradley, Chappelle, Quarles, Smith, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in Residential Districts - Use Unit 1206) of setback from the west property line (Union Avenue) from 25' to 3' to allow for a detached accessory building; per plot plan submitted; finding a hardship imposed on the applicant by the fact that the subject property has street frontage on two public streets; and finding that the a greenhouse was previously located on the lot; on the following described property:

Lots 5 and 6, Block 12, Park Hill Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 14831

Action Requested:

Charles Norman requested clarification of minutes, site plan and project statistics for Case No. 14831.

Presentation:

The applicant, Charles Norman, Suite 909, Kennedy Building, Tulsa, Oklahoma, stated that the application in question was presented and approved in June of 1988. He explained that the request was to expand an existing building, and that during the process of acquiring a building permit, a question arose as to whether or not it was clear that there was to be an addition to the second story. Mr. Norman pointed out that the site plan filed at that time is of the ground level, but the perspective view from the northeast did depict the back side of the building. He referred to project

Case No. 14831 (continued)

statistics (Exhibit R-1) which show the amount of square footage that is to be added to the first and second floors of the building. Mr. Norman stated that he failed to submit rear elevations or a second floor site plan at the prior Board of Adjustment hearing.

Comments and Questions:

Mr. Quarles asked Mr. Norman if he is before the Board at this time merely to confirm that the construction will include the second story of the house.

Mr. Norman suggested that the minutes be corrected to clarify that the prior approval was according to the site plan in the project statistics.

Ms. Hubbard stated that she did not suggest that the Board clarify the minutes. She informed that Mr. Norman asked her if the situation could be handled through the clarification of the minutes, and that she was not opposed to this procedure if it could be completed without readvertising. Ms. Hubbard stated that she could have issued the permit if the Board had included the second story addition in their approval motion.

Mr. Jackere informed that the application was for a special exception for an expansion, however, a two-story addition in an OL zoned district requires a variance. He stated that the advertisement is to notify the public of what is taking place on the property, and that it would have been impossible for a property owner receiving the prior notice to determine that this was to be a two-story addition.

Mr. Norman pointed out that it should have been clear by the exhibits submitted and the presentation at the prior meeting that the addition was to include the second story. He stated that every building on that side of the street is two-story and has been since initial construction. Mr. Norman noted that the residents in the area were advised of the owners intent and the plans were reviewed by the Gillette Historic District.

Ms. Bradley asked Mr. Jackere if the application was legally advertised, and he replied that, in his opinion, it was not legally advertised.

Mr. Quarles asked when the construction is to begin, and Mr. Norman informed that it was to begin a week ago.

Mr. Quarles stated that the residents of the neighborhood were advised of the intent of the owner, and that the Board was also advised that the proposed construction was to include the second floor of the building.

Mr. Quarles and Mr. Chappelle stated that they understood from the previous meeting that the second floor was to be included in the addition.

Case No. 14831 (continued)

Ms. Bradley stated that the previous request should have been for a variance, and that the Board should consider the opinion of legal counsel in this matter.

Board Action:

On **MOTION** of **QUARLES**, the Board voted 2-1-1 (Chappelle, Quarles, "aye"; Bradley, "nay"; Smith, "abstaining"; White, "absent") to **CLARIFY*** the minutes to read that the Board was aware that the proposed construction involved enlargement of the second story of the building, and that the surrounding neighborhood was properly notified of the construction plans.

*A majority vote is required for clarification of the minutes.

There being no further business, the meeting was adjourned at 3:47 p.m.

Date Approved 10-25-88

Chairman