CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 545
Thursday, August 17, 1989, 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
Bolzle	White	Gardner	Jackere, Legal
Bradley		Jones	Department
Chappelle		Moore	Hubbard, Protective
Fuller			Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, August 15, 1989, at 2:50 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** the Minutes of August 3, 1989.

UNFINISHED BUSINESS

Case No. 15210

Action Requested:

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

Variance - Section 440.6(a) - Special Exception Requirements - Use Unit 1209 - Requests a variance of the time restrictions from one year to permanently, located 17301 East Admiral Place.

Presentation:

The applicant, **Charles Whitebook**, 2431 East 51st Street, Tulsa, Oklahoma, counsel for Ms. McNally, stated that he was unable to attend the initial presentation of the case. The applicant informed that his client explained, at the previous meeting, that she is proposing to purchase a six-acre tract and move a double-wide mobile home to the property. The case was continued to allow the Board members sufficient time to view the property. A plot plan (Exhibit X-1) was submitted.

Case No. 15210 (continued)

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for a double-wide mobile home, installed on a permanent foundation, to locate in an RS-1 zoned district; and to **APPROVE** a **Variance** (Section 440.6(a) - Special Exception Requirements - Use Unit 1209) of the time restrictions from one year to permanently; per plot plan submitted; subject to Health Department approval and Building Permit; finding that the requests, as presented, will not be detrimental to the area; on the following described property:

The west 168.32' of the east 343.15' of Lot 7, and the east 84.6' of the west 168.32' of the east 511.47' of Lot 7, and the west 168.32' of the east 595.63' of Lot 7, Section 2, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15222

Action Requested:

Variance - Section 280 - Structure Setback from Abutting Street - Use Unit 1205 - Request a variance of setback from the centerline of North Lewis Avenue from 50' to 28' to allow for an existing sign, located at 1928 North Lewis Avenue.

Presentation:

The applicant, **Warren Nelson**, 3041 East Pine, Tulsa, Oklahoma, submitted photographs (Exhibit A-1) and stated that he is representing the church at the above stated address. He informed that the church sign has been located on the roof of an entry room, which was removed because of structural problems. Mr. Nelson stated that the sign was erected at the present location by members of the congregation, who were unaware that it would encroach into the setback on Lewis Avenue. He asked the Board to allow the structure to remain at the present location.

Comments and Questions:

Ms. Bradley asked if the stone sign is the subject of this request, and Mr. Nelson replied that the stone sign was existing, but the church sign on the poles is the sign in question. She asked if both signs will remain on the property, and the applicant answered in the affirmative. He explained that the stone sign only shows the time of services and the church name is on the added sign.

Case No. 15222 (continued)

In response to Mr. Bolzle, the applicant stated that, if the required setback is met, the sign would be set back further than the front of the building.

Mr. Gardner advised that, if inclined to approve the application, the Board should require a removal contract, and if the sign extends into the right-of-way, City Commission approval will also be required.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 280 - Structure Setback from Abutting Street - Use Unit 1205) of setback from the centerline of North Lewis Avenue from 50' to 28' to allow for an existing sign; subject to the execution of a removal contract; and subject to City Commission approval if the sign is located in the City right-of-way; finding that, if the sign is installed at the required setback, it would be further back than the front of the building; on the following described property:

The north 156.54' of Lot 1 and the east 50.23' of Lot 2, Block 4, Conservation Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15223

Action Requested:

Variance - Section 430.1 - Bulk & Area Requirements in Residential Districts - Use Unit 1206 - Request a variance of setback from the centerline of Hartford Avenue from 50' to 48' to allow for a dwelling unit, located at 645 East Latimer Place.

Presentation:

The applicant, **Brandy Presley**, was represented by **Jim Hart**, 1424 East 68th Place, Tulsa, Oklahoma. He informed that he is speaking on behalf of Emmett Atwood, Inc., and stated that the house which is to be constructed will encroach two feet into the required setback.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk & Area Requirements in Residential Districts - Use Unit 1206) of setback from the centerline of Hartford Avenue from 50' to 48' to allow for

Case No. 15223 (continued)

a dwelling unit; per plot plan; finding a hardship demonstrated by the corner lot (major building setback from two streets), and limited building space; on the following described property:

The east 18' of Lot 23, all of Lot 24, Block 13, Greenwood Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15224

Action Requested:

Variance - Section 207 - Street Frontage Required - Use Unit 1208 - Request a variance of the required frontage on a public street from 30' to 0' to allow for a lot split (L-17209), located 2602-24 South Sheridan Road.

Comments and Questions:

Mr. Jones informed that the TMAPC has previously approved the application, subject to Board of Adjustment approval.

Presentation:

The applicant, **Bill Latting**, 2114 East 61st Street, Tulsa, Oklahoma, informed that there are three uses on the subject tract, with the two lots on Sheridan being for a shopping center and offices. It was noted that the apartment complex to the rear does not front on a public street, but is accessed by private easement. Mr. Latting stated that Board approval is necessary to file the lot split with the Clerk, as the lot to the rear has previously been tied to one of the lots fronting Sheridan. The lot split will permit the property to be under three different ownerships. A plat of survey (Exhibit C-1) was submitted.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** (Section 207 - Street Frontage Required - Use Unit 1208) of the required frontage on a public street from 30' to 0' to allow for a lot split (L-17209); per plat of survey submitted; finding that an apartment complex has been located on the the tract for some time and has private recorded access to a dedicated street; on the following described property:

Lot 1, Block 1, South Sheridan Manor Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15219

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 RM-1 zoned district, located 1839 North Cincinnati Avenue.

Presentation:

The applicant, **Delbert Howard,** 214 East Tecumseh, Tulsa, Oklahoma, stated that he owns a house at the above stated location and would like to convert it into a day care center. He informed that the Department of Human Services will determine the number of children that can be kept at the center.

Comments and Questions:

Ms. Bradley stated that she is concerned with the lack of parking on the lot and asked where a space will be provided for the arrival and departure of the children. Mr. Howard replied that the driveway is on Tecumseh.

Mr. Jackere asked the applicant if he has a plot plan that depicts the driveway, parking and the location of the structure on the lot. Mr. Howard stated that the driveway has not been installed at this time and that he does not have a plan.

It was noted by Ms. Bradley, that the gravel driveway that is presently on the lot would require backing out into the street when dropping off the children.

Mr. Jackere suggested that the application could be continued to allow the applicant to present a plot plan for Board review.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **CONTINUE** Case No. 15219 to September 7, 1989, to allow the applicant sufficient time to acquire a plot plan and photographs for Board review.

Case No. 15220

Action Requested:

Variance - Section 1221.3(1) - General Use Conditions for Business Signs - Use Unit 1221 - Request a variance of signage from 90 sq ft to 135 sq ft, and a variance of the minimum number of signs to allow for the replacement of an existing sign, located at 3120 South Sheridan Road.

Presentation:

The applicant, **Duane Gooding,** was represented by **Carola Herman,** 1097 East 132nd Street, Glenpool, Oklahoma, who requested permission to replace the face of an existing Black and Decker sign at the

Case No. 15220 (continued)

above stated location. She submitted a sign plan (Exhibit D-1) and photographs (Exhibit D-2) for the proposed sign.

Comments and Questions:

Ms. Bradley noted that there are several signs on the property, and asked which sign is under application. Ms. Herman stated that the sign in question only contains the words Black and Decker Service Center at this time.

At Ms. Bradley's request, Mr. Jackere informed that the Code allows one ground sign for each 150 ft of frontage, or two signs for this property. He pointed out that the Board will have to determine if there is something unique about the property that will justify the granting of the variance request.

Ms. Herman stated that the number of signs will not be increased.

Mr. Bolzle asked the applicant to address the hardship for increasing the size of the sign, and Ms. Herman explained that all Black and Decker signs across the United States will have identical signs. In response to Mr. Bolzle's question, the applicant replied that the height of the new sign will be increased and it will be a lighted sign.

Mr. Chappelle and Mr. Bolzle agreed that the hardship seems to be a self imposed one, and Mr. Bolzle pointed out that the area is cluttered with signs.

Mr. Chappelle asked Mr. Jackere if it has been a practice of the Board to allow the face of the sign to be increased in similar cases, and he replied that they have not been inclined to approve an increase in signage in previous cases, unless the number of signs was to be reduced.

Ms. Bradley remarked that she has viewed the area, and the existing Black and Decker sign is clearly visible to the public.

Mr. Gardner suggested to the Board that they determine whether or not the condition of the property will be improved in any way by the granting of a larger sign.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **DENY** a **Variance** (Section 1221.3(1) - General Use Conditions for Business Signs - Use Unit 1221) of signage from 90 sq ft to 135 sq ft, and **APPROVE** a **Variance** of the minimum number of signs to allow for the replacement of an existing sign; finding that the sign has been at this location for a long period of time, but finding no hardship for increasing the size of the sign; on the following described property:

Part of Lots 2 and 3, Block 1, Sheridan Circle, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, more particularly described as follows, to-wit: A tract of land, containing 0.831 acres, that is part

Case No. 15220 (continued)

of Lots 2 and 3 of Block 1, Sheridan Circle, a subdivision in the NE/4, Section 22, T-19-N, R-13-E, said tract of land being described as follows, to-wit:

Beginning at a point on the easterly line of Lot 3, said point being 25' southerly of the NE/c of Lot 3; thence due west, and parallel to the north line of Lot 3, for 175'; thence N 0°01'51" E, and parallel to the east line of said Section 22, for 205' to a point that is 200' southerly of the north line of said Lot 2, said point being 250' west of the easterly line of said Section 22; thence due east along a line that is parallel to the north line of said Block 1, for 186.04' to a point on the easterly line of said Lot 2; said line being parallel to, and 50' due south of the south line of Lot 1 of said Block 1; thence S 11°20'27" W along the easterly line of said Lot 2 for 56.26' to a corner thereof; thence S 0°01'51" W along the easterly lines of said Lot 2 and said Lot 3 for 149.84' to the point of beginning of said 0.831 acre tract of land, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15221

Action Requested:

Variance - Section 1221.7(D) - General Use Conditions for Outdoor Advertising Signs - Use Unit 1221 - Request a variance of setback from an R District (highway) to allow for an outdoor advertising sign, located 2615 South Harvard Avenue.

Presentation:

The applicant, **Bill Stokely,** 10111 East 45th Place, Tulsa, Oklahoma, stated that he has previously been before the Board concerning signage at this location. He explained that the first application involved a spacing requirement and, due to an error in the drawing, he returned to the Board for additional relief. Mr. Stokely noted that the two previous applications were approved. He pointed out that the expressway, which has an R zoning classification, requires a 10' setback for signs. It was noted by the applicant that his sign has been installed in the same location as the previous sign and is encroaching into the 10' setback. Mr. Stokely remarked that he has been in the sign business approximately 12 years. A sign plan (Exhibit E-1) was submitted.

Comments and Questions:

Mr. Jackere asked the applicant if the existing pole sign is setting at the exact location as the previous one, and he replied that it is further back from the expressway.

Mr. Jackere inquired as to the distance from the existing sign to the expressway right-of-way, and the applicant replied that one sign is 2' and one sign is 3' from the right-of-way. He pointed out that the nearby KVOO sign is 7" from the right-of-way. Mr. Stokely stated that the first drawings submitted to Staff show that the sign is 10' from the right-of-way, but the second set of drawings does not contain this figure. A letter (Exhibit E-2) to Jim Garriott, Sign Inspection, was submitted.

Case No. 15221 (continued)

Comments and Questions:

For clarification, Mr. Bolzle asked if two new signs were installed at the location of two previously existing signs and, if in order to installed the signs, Board approval for spacing and setback variances was requested, and Mr. Stokely answered in the affirmative. Mr. Bolzle asked the applicant why he appeared before the Board a second time, and he replied that the property was surveyed and it was found that the previous measurement between the two signs was not correct. Mr. Stokely stated that he is before the Board at this time because the sign encroaches into the expressway right-of-way setback.

Interested Parties:

Ed Rice, Chief Building Inspector, requested that the application be denied. He stated that it is his conclusion that the hardship is self-imposed, and pointed out that Mr. Stokely signed the sign application, which stated that the sign is to be placed 10' from the right-of-way. He also submitted the original drawing (Exhibit E-4) depicting the sign location as 10' from the right-of-way. Mr. Rice stated that he understands that both a billboard and an on-premise sign are to be considered by the Board, as they are both encroaching on the required setback.

There was discussion as to whether the application is to consider one or two signs, and Mr. Gardner pointed out that the two signs previously considered are both outdoor advertising structures; however, one sign located on the property has the name of the business, Spraker Volkswagen, and the other is used for off-premise advertising purposes. He stated that the 10' setback requirement for signs has been in the Zoning Code for approximately five years, and Mr. Stokely has been in the sign business for 12 years, yet did not seek relief for the signs from the expressway 10' setback.

Mr. Jackere stated that the Board can only hear the applicant's request for an outdoor advertising sign, as there is only one sign (singular request) mentioned on the application.

Mr. Stokely stated that he was not aware that the 10' setback applied to on-premise signs, and asked the Board to grant a continuance to allow him to submit drawings that depict the actual location of the signs.

Mr. Rice pointed out that Mr. Stokely has submitted a copy of the City Engineer's finding, which show the exact location of the signs.

Mr. Bolzle noted that the Board has a plot plan which shows the location of the signs, and asked Mr. Stokely what more he could supply. Mr. Stokely replied that he could supply photographs before and after the installation of the new signs. He informed that Mr. Rice was surprised that the former holes for the signs were not 10' from the right-of-way (location non-conforming), and it was evident that the holes were not 10' away. Mr. Stokely stated that the first drawing submitted to the Board placed the poles 10' from the right-of-way, but the second drawing did not.

Case No. 15221 (continued)

Mr. Jackere pointed out to Mr. Stokely that it is the applicant's responsibility to erect the signs according to the requirements of the Code. He further noted that the only difference between the first application and second application, was the distance between the signs (signs were actually closer together).

Mr. Gardner advised that, if both signs are approved and the 10' setback is waived, the Board would primarily be reversing the position the Oklahoma Department of Transportation has been taking during the past several years. He pointed out that the department has been requiring signs to be in compliance with the 10' setback, and noted that, if the application is approved as requested, the signs will not have to be removed in 1995, or otherwise comply to standards of setback.

Mr. Bolzle stated that, although aware of the economic hardship imposed on the applicant, he is not inclined to support the sign application (southeasternmost sign).

Board Action:

Mr. Bolzle's motion for denial of the application failed for lack of a second.

Additional Comments:

Mr. Bolzle pointed out that the applicant can reduce the signage area (come into compliance), and Mr. Stokley replied that this is not possible.

There was discussion as to what portion of the sign the 10' measurement is taken from, and Mr. Jackere replied that the point of the sign which is nearest to right-of-way is the point where the measurement begins. Mr. Stokely pointed out that the pole for the cantilever sign would be in the middle of the car lot if he complies with the required setback.

Mr. Bolzle reiterated that he is not supportive of the application. He pointed out that the applicant has been installing signs for 12 years, and the (original) plan he submitted shows the location of the poles to be 10' from the right-of-way.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **DENY** a **Variance** (Section 1221.7(D) - General Use Conditions for Outdoor Advertising Signs - Use Unit 1221) of setback from an R District (highway) to allow for an outdoor advertising sign (southeasternmost sign); finding that the applicant failed to demonstrate a hardship that would justify the granting of the variance request; on the following described property:

Lot 14, Block 6, Kirkmore Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 15228

Comments and Questions:

Mr. Jones informed that it is customary that the Board waive the fees for any public entity or school.

Action Requested:

Jenks Independent School District No. 5, request waiver of filing fee for application.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a request for waiver of filing fee for Jenks Independent School District No. 5.

Case No. 14418

Action Requested:

Review of detail landscape plan.

Comments and Questions:

Mr. Jones explained that church use on the property was previously approved by the Board, subject to the applicant returning to the Board with a detail landscape plan.

Presentation:

The applicant, **John Moody,** was represented by **Jack Straight,** 6600 South Yale, Tulsa, Oklahoma. He submitted a detail landscape plan (Exhibit F-1), and informed that he is the architect for the Joy Lutheran Church, which occupies the existing building on the tract.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** the **detail landscape plan** as submitted.

Discuss and Take Action on Recommendations from INCOG Infill Study

Mr. Steve Compton, INCOG, informed that the Infill Study recommendations relating to the Board of Adjustment are a result of meetings held by a joint committee of Planning Commission and Board of Adjustment members. He noted that the Rules and Regulations Committee, consisting of a number of Planning Commission's members, made revisions and submitted the study to the Planning Commission, who adopted numbers one, three and four of the recommendation. Mr. Compton noted that recommendation number two specifically concerns changes to the Board of Adjustment Procedures, and is before the Board for review and approval. He pointed out that the Board has not previously adopted General Policies, and there are three such policies that have been recommended for approval.

Infill Study (continued)

Comments and Questions:

There was Board discussion with Mr. Jackere and Staff concerning the need for the revision. Mr. Jackere advised that, although he finds no specific need for the revision, he does not object to the change.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **revision** in the Rules of Procedure to add the following to Public Hearing Procedures, G - 3(d): **If the applicant presents a significantly changed site plan and/or written land use proposal from that submitted for Staff review, (determined by Staff and Board at the time of the presentation) such action is considered grounds for continuance.**

Additional Comments:

Mr. Gardner submitted the following General Policies for Board review and adoption, as follows:

Street Frontage Required (Section 207)
It is the policy of the Board that Section 207 shall apply to all lots except those exempt under the terms of this Section. Self-imposed hardships created by using private streets under this Section without the use of a PUD will be discouraged.

Supporting Information
It is the policy of the Board that sufficient supporting information, such as a plot plan, plot of survey, site plan, written statement of conditions, etc., be filed with the application in order for the Staff and Board to have time to evaluate the proposal. Insufficient support data is grounds for denial or continuance until such data is supplied.

Multiple Variances
Applications which require three or more variances usually indicate overbuilding on the lot. Such applications will be discouraged since the hardship is usually self-imposed. PUD's are encouraged if this degree of design flexibility is required.

Mr. Jackere submitted a letter regarding General Policies to be adopted, which suggested that the policies pertaining to **"Street Frontage Required"** and **"Multiple Variances"** (General Policies one and three presented by Staff) be combined using the following language: Proposed development projects which require multiple variances, the use of private streets, or require a variance of frontage from the Board, are encouraged to be developed through the use of the PUD development process. Based upon an evaluation of the application materials and information, applicants will be advised by Staff at the time of the initial review to seek the more appropriate PUD forum.

Mr. Gardner stated that he is in agreement with the combination of the two items, and the second item of the General Policies **(Supporting Information)** can be adopted as written.

Infill Study (continued)

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** the **General Policies** as amended.

There being no further business, the meeting was adjourned at 2:40 p.m.

Date Approved 9/7/89

Harry White
Chairman