CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 547
Thursday, September 28, 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	Bradley	Gardner	Jackere, Legal
Chappelle		Jones	Department
Fuller		Moore	Hubbard, Protective
White, Chairman			Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, September 22, 1989, at 3:57 p.m., as well as in the Reception Area of the INCOG offices.

Due to lack of quorum, the regularly scheduled meeting for September 21, 1989 was rescheduled for September 28, 1989.

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

MINUTES:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** the Minutes of September 7, 1989.

Clarification of Minutes - Case No. 15233

Mr. Jones stated that, at the previous meeting, the request was made to allow church use at 3231 East Seminole Street, with a variance of the one acre lot minimum to 7/10-acre. He stated that the minutes reflect that the Board approved the location of the use to be on the southwest corner of Tecumseh and Harvard; which was also the opinion of Staff; however, the applicant later indicated to the Building Inspector that the west end of the tract is the actual location of the subject property. Mr. Jones stated that the lot is not located in the CS zoned portion of the tract, and that Staff is requesting a clarification of the Board's understanding and intent regarding this case.

There was Board discussion concerning the proposed location of the church, and it was their general consensus that the applicant presented the location to be the southwest corner of Tecumseh, and that the minutes are correct.

Clarification - Case No. 15233 (continued)

Mr. Jackere stated that he visited with a number of the protestants after the previous meeting and, even though the applicant stated that the proposed church location is in the CS zoned portion, they knew that the property in question would be in the area closer to the residential district. Mr. Jackere stated that it was his understanding that the church is to be on the southwest corner of the property, but that he had assured the protestants that they will be notified if the location is determined to be nearer the residential neighborhood.

The applicant, **Lawrence Morrison,** stated that he has had expenditures in preparing for the case, and that the plot plan gave the specific location of the proposed church and was drawn up by a professional person. He pointed out that a further delay will cost additional money.

Mr. Gardner stated that Staff did not have access to the documents presented at the previous meeting, but there is no problem with the advertising, as the legal description covered the entire tract from which the 7/10-acre plot was taken. He pointed out that the applicant was asked if the proposed site is located across the street from the store to the north, and Mr. Morrison answered in the affirmative; however, the subject tract is across, and approximately 300' down the street, from the store.

Ms. Hubbard informed that the applicant may also need screening and setback relief. She suggested that Mr. Morrison make application for a Building Permit and allow that department to conduct a thorough review of the case to determine if additional relief is required.

Mr. Jones informed that, if required, the application can be readvertised and ready for rehearing on October 19, 1989.

Board Action:

On **MOTION** of **FULLER,** the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **DETERMINE** that the **Minutes** for September 7, 1989, concerning Case No. 15233 are correct, and suggested that the applicant make a request for a Building Permit, at which time the Building Inspector will determine if further relief from this Board is required.

UNFINISHED BUSINESS

Case No. 15229

Action Requested:

Appeal - Section 1650 - Appeals from an Administrative Official - Use Unit 1211 - Request an appeal from the decision of the Building Inspector for not permitting a non-conforming tax consulting and bookkeeping business in an RS-3 zoned district, located 1456 North Joplin.

Case No. 15229 (continued)

Presentation:

The applicant, **Steven W. Kopet,** 7480 East 1st Street, Tulsa, Oklahoma, submitted a packet (Exhibit A-1) containing photographs, yellow page advertising, letters of support, and a copy of the plat and the annexation ordinance, as well as various other documents supporting the fact that the business in question was in operation at this location in 1951. Mr. Kopet stated that the property was annexed into the City on December 28, 1951, with the tax service beginning operation at this location March 17, 1951.

Comments and Questions:

Mr. Jackere asked if Mr. Boman purchased the property on March 17, 1951, and the applicant answered in the affirmative. He pointed out that Mr. Boman was divorced in December of 1951 and at that time the tax service had been generating revenue in the amount of $1500 per year. The applicant stated that Mr. Boman is deceased.

Mr. Fuller asked if there are other businesses in this area along Pine Street, and the applicant replied that Max Cleaners is approximately 1 1/2 blocks from the subject property.

Mr. Jackere advised that the only issue before the Board at this time is if the tax consulting and bookkeeping business is a nonconforming use.

In reply to Mr. Bolzle, Mr. Jackere pointed out that the existence of the business at the time of the annexation could be proved by evidence provided by someone that had done business with the company at that time, or tax records of the initial owner; however the previous owner is deceased and records are not available.

Mr. Jackere asked the applicant if Mr. and Mrs. Boman lived at this location, and the applicant replied that the Bomans resided in the house, and he continued to live on the premises and operate the business after the divorce. The applicant stated that the property was sold to Mr. Brody in 1973, and that he purchased the property from Mr. Brody in 1978.

In response to Mr. Jackere, the applicant stated that Mr. Boman had one employee, Glen Cheatham, who lived next door and operated the business for him. He informed that Mr. Brody did not live at this location when he acquired the business, but the back portion of the house was used as temporary quarters for tax consultants during the peak season. He pointed out that the employees worked approximately 16 hours during these busy times.

Mr. Jackere pointed out that the Code does not allow a nonconforming use to expand, and the Board will be required to determine if the business is nonconforming, and if so, whether or not the business has expanded or changed in character.

Case No. 15229 (continued)

Interested Parties:

Kirk Larkin, 816 Lexington Road, Sapulpa, Oklahoma, stated that he purchased the tax business from Mr. Kopet in November of 1988, and currently has a contract to purchase the property, contingent upon the Board's approval of this application. Photographs (Exhibit) of commercial uses along Pine Street were submitted. He asked the Board to allow the continuance of a use that has been conducted at this location for approximately 30 years.

Mr. Jackere asked Mr. Larkin if he has employees, and he replied that he and two employees will operate the business.

Mr. Fuller stated that, according to letters from surrounding property owners and evidence supplied by the applicant, it appears that the business was probably in operation nine months before annexation of the addition.

Ms. White remarked that she is of the opinion that the business is probably nonconforming, but feels that it has been expanded over the years.

Mr. Gardner pointed out that, if inclined to find the business nonconforming, the Board could determine to what extent the business is nonconforming. He stated that the applicant could be required to maintain the residential character of the existing structure, limit the amount of signage, and limit the number of employees for the business.

In response to Ms. White, Mr. Larkin stated that he and three employees will operate the business during the peak season.

Board Action:

On **MOTION** of **FULLER,** the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **REVERSE** the **Decision** of the Building Inspector and grant an Appeal (Section 1650 - Appeals from an Administrative Official - Use Unit 1211) from the decision of the Building Inspector for not permitting a non-conforming tax consulting and bookkeeping business (accounting and CPA) in an RS-3 zoned district; finding the use to be nonconforming and allowing it to continue at the present location; subject to the residential character of the structure being retained; subject to the sign being no larger than 2' by 3'; subject to no expansion of the building and a maximum of four employees (including the owner of the business); on the following described property:

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

MINOR VARIANCES AND EXCEPTIONS

Case No. 15246

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential District - Use Unit 1206 - Request a variance of the required 10' side yard to 8' to allow for both an existing structure and new addition, located 4728 West 8th Street.

Comments and Questions:

Mr. Jones informed that a portion of the property in question is located in a floodplain and a Watershed Development Permit will be required prior to development.

Mr. Gardner pointed out that the residence is located in an area that has developed predominately single-family, although it is blanket zoned multi-family. He stated that, if zoned single-family, only a 5' side yard setback would be required.

Presentation:

The applicant, **Jack Wantland**, 4732 West 8th Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit B-1), and requested permission to construct an addition to an existing dwelling. The plot plan indicated that the addition will align with the existing structure.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential District - Use Unit 1206) of the required 10' side yard to 8' to allow for both an existing structure and new addition; per plot plan submitted, and subject to Stormwater Management approval; finding that the proposed addition will not encroach further into the setback than the existing dwelling; and finding a hardship demonstrated by the fact that the house is located in an area that, although blanket zoned multi-family, has developed single-family residential; on the following described property:

Lot 6, Block 2, Rayburn's Subdivision, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15239

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1208 - Request a variance of the required 85' setback from the centerline of East 51st Street South to 49' to permit an existing apartment complex, located at 2545 East 51st Street South.

Presentation:

The applicant, **Scott Coulson,** 1500 Bank of Oklahoma Tower, Tulsa, Oklahoma, who submitted a plot plan (Exhibit C-1), stated that the apartment building in question has been at this location for approximately twenty years and the variance is requested to clear the title. Mr. Coulson pointed out that the building probably conformed to the Code at the time of construction.

Comments and Questions:

In response to Mr. Chappelle, the applicant stated that there will be no new construction on the property.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1208) of the required 85' setback from the centerline of East 51st Street South to 49' to permit an existing apartment complex; per plan submitted; finding that the building in question was constructed approximately 20 years ago (prior to current Code requirements), and no new construction is proposed; on the following described property:

A part of Lots 6 and 7, Block 2, South Lewis View, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, together with a portion of the west 30' of vacated South Columbia Avenue, lying south of Skelly Drive right-of-way, being more particularly described as follows, to-wit:

Beginning at the SW/c of said Lot 7, Block 2; thence east along the south line of said Block 2, a distance of 329.2'; to a point in the center of the vacated South Columbia Avenue; thence north along the centerline of said vacated South Columbia Avenue, a distance of 110' to a point on the southerly right-of-way line of Skelly Drive; thence southwesterly along the southerly right-of-way line of Skelly Drive a distance of 31.62' to a point that is 100' north of the SE/c of said Lot 6, Block 2; thence westerly along the southerly right-of-way line of Skelly Drive a distance of 299.2' to a point on the westerly line of said Lot 7, Block 2; thence south along the west line of said Lot 7, Block 2 a distance of 100' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15241

Action Requested:

Special Exception - Section 410 - Permitted Uses in the Residential Districts - Use Unit 1205 - Request a special exception to permit church use in an RS-3 zoned district.

Variance - Section 1205.3 - Use Conditions - Use Unit 1205 - Request a variance of the minimum 1 acre lot area.

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1205 - Request a variance of the required 25' setback from the rear property line to 20', located SW/c West 40th Street South & South 34th West Avenue.

Presentation:

The applicant, **Beverly Warren,** 4555 West 64th Place, Tulsa, Oklahoma, represented the Redfork Church of God. She stated that a picnic shelter (30' by 60') is to be constructed on church property across the street from the building. Ms. Warren explained that the shelter will be used for church activities. A plot plan (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Jones explained that the Board has previously approved church use on the property where the building is located, and now the church is proposing to utilize other property across the street for additional church activities. He pointed out the picnic shelter would become the principal use on the lot and suggested that, if inclined to approve the application, a tie contract could be required in order that all church properties would be tied together.

Ms. White asked if the picnic shelter will be an open structure, and Ms. Warren answered in the affirmative.

Mr. Bolzle asked if lighting will be installed in the shelter, and the applicant replied that she is not sure, but is under the impression that lights will be installed.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 410 - permitted Uses in the Residential Districts - Use Unit 1205) to permit church use in an RS-3 zoned district; to **APPROVE** a **Variance** (Section 1205.3 - Use Conditions - Use Unit 1205) of the minimum 1 acre lot area; and to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1205) of the required 25' setback from the rear property line to 20'; per plot plan submitted; subject to the execution of a tie contract; finding that church use is prevalent in the area and has proved to be

Case No. 15241 (continued)

compatible with the residential neighborhood; and finding that the granting of the requests will be in harmony with the spirit, purposes and intent of the Code; on the following described property:

Lots 1 - 7, Block 11, Yargee Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15244

Action Requested:

Special Exception - Section 420 - Accessory Uses in Residential Districts, Use Unit 1206 - Request a special exception to permit a home occupation craft (bead) supply in a RS-3 zoned district, located 3122 South 85th East Avenue.

Presentation:

The applicant, **Henry Farris,** 3122 South 85th East Avenue, Tulsa, Oklahoma, was represented by Mrs. Farris, who submitted a letter (Exhibit E-1) explaining the business in question. She stated that jewelry is made and designed in her home, but these pieces are not sold at this location. Ms. Farris stated that she sells hard-to-get articles such as horses tails and other special items.

Comments and Questions:

Ms. White inquired as to the type of delivery to the home, and the applicant stated that she receives packages from UPS only.

Ms. White asked Ms. Farris if customers come to her home to purchase jewelry, and she replied that she does not sell finished jewelry at this location, but does sell supplies for making jewelry. Ms. Farris stated that paint, brushes, or supplies of that nature are not sold from her home.

Mr. Fuller asked how many customers visit the home each day, and Ms. Farris replied that she may not have one customer in a week, but on a good day she could have as many as 12 customers. He inquired as to the parking area provided for the customers, and she stated that there is sufficient parking on the driveway for 6 vehicles. Ms. Farris remarked that customers do occasionally park in the street.

Ms. White asked if the addition on the west of the garage is a part of the business, and Ms. Farris replied that the structure is used as a boat house and is not a part of the business. In response to Ms. White's inquiry concerning Home Occupation Guidelines, Ms. Farris informed that she is familiar with those requirements, and does not have a sign for the business.

Case No. 15244 (continued)

Protestants:

Gordon Fallis, 3138 South 85th East Avenue, Tulsa, Oklahoma, stated that he has lived at the present location since 1961, and pointed out that the area is strictly residential. Mr. Fallis remarked that he would have protested earlier if he had know the applicant was operating a business in the neighborhood. He asked that the application be denied.

Ms. White asked Mr. Fallis if he was aware that a business was in operation at this location before he received notice of the hearing, and he replied that he was unaware of the business.

Bob Schlefen, 8167 East 31st Place, Tulsa, Oklahoma, stated that he lives three houses west of the Farris property, and has owned property at this location for many years. Mr. Schlefen remarked that he is protesting the application because the business will decrease the value of his home. Letters of opposition (Exhibit E-2) were submitted.

Ms. White asked Mr. Schlefen if he was aware of the business operation prior to this meeting, and he replied that cars are frequently parked on the corner, and it was evident that something was going on at this location. Mr. Schlefen stated that he has been told that a picture frame business is being conducted in the garage of the Farris home.

Applicant's Rebuttal:

Mr. Chappelle asked Ms. Farris if she has employees, and she replied that she does not have employees.

In response to Mr. Fuller, the applicant stated that she has operated the business at this location since 1977 or 1978.

Mr. Jackere asked the applicant if pictures frames are made in the home, and Ms. Farris replied that there is not a frame business at this location. She explained that her son previously made frames here, but the business was closed and he moved to another state.

There was discussion as to appointments for the customers, and the applicant stated that she has customers from as far away as New Mexico. She stated that hours of operation have recently been established, and customers visit between the hours of 10:00 a.m. and 6:00 p.m.

Mr. Chappelle stated that he is inclined to support the home occupation if the applicant can comply with the Home Occupation Guidelines.

Board Action:

On **MOTION** of **FULLER,** the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 420 - Accessory Uses In Residential Districts - Use Unit 1206) to permit a home

Case No. 15244 (continued)

occupation craft (bead) supply in a RS-3 zoned district; per Home Occupation Guidelines; subject to hours of operation being 10:00 a.m. to 6:00 p.m.; finding that the applicant has been selling craft supplies at this location for approximately 12 years; and finding that the home occupation, as presented, will not be detrimental to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

Lot 4, Block 3, Longview Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15245

Action Requested:

Special Exception - Section 310 - Permitted Uses In The Agriculture District - Use Unit 1205 - Request a special exception to allow a rowing club in on AG and FD zoned district, located West Side of Arkansas River at approximately West 20th Place.

Comments and Questions:

Mr. Jones informed that the tract is located in a floodway and a Watershed Development Permit will be required prior to development.

Presentation:

The applicant, **James Jessup,** was represented by **Sam Stone,** Sooner Rowing Association. He submitted a drawing and site plan (Exhibit F-1) for a storage facility which will be constructed at the above stated location, and will house the rowing equipment for the association. A letter (Exhibit F-2) from Jackie Bubenik, River Parks Authority, stated that sufficient parking is available to support the proposed rowing facility, and will be leased by the association.

Comments and Questions:

Mr. Gardner advised that a 40' building setback is required in an AG District and, according to the plot plan, the applicant may have to readvertise for a variance, or lease additional land, to comply with the Code setback requirements. He pointed out that, if additional land is acquired, a revised legal will be needed to reflection the change.

Mr. Stone stated that time is of the essence and that leasing of additional land would probably be the most simple solution to the setback problem, if one exists.

In response to Mr. Jackere's question concerning the 40' setback, Mr. Gardner clarified that the subject property, as well as the surrounding property, has an AG zoning classification and requires a 40' building setback.

Case No. 15245 (continued)

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 310 - Permitted Uses In The Agriculture District - Use Unit 1205) to allow a rowing club in on AG and FD zoned district; per plot plan submitted; finding that the use will be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

All that part of Lot 11, Section 11, T-19-N, R-12-E, of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the official US Government Survey thereof more particularly described as follows, to-wit:

Beginning at the northwesterly corner of an existing concrete boat ramp on the westerly bank of the Arkansas River and West 21st Street South; thence due west a distance of 14.94'; thence N 49°22'9" W a distance of 45.49'; thence due west a distance of 35.36'; thence W 63°13'30" W a distance of 89.54'; thence N 32°5"53' W a distance of 142.38'; thence N 57°54'7" E a distance of 70.00'; thence N 73°42"5' E a distance of 127.10'; thence S 32°5'53" E a distance of 250.00'; thence S 55°0'0" W a distance of 90.00' to the Point of Beginning, containing 45,993.0 sq ft or 1.0559 acres more or less, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15247

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In the Residential District - Use Unit 1206 - Request a variance of the required 50' front setback (measured from the centerline of East 6th Street) to 32' to permit an existing carport, located 7504 East 6th Street.

Presentation:

The applicant, **Geraldine Alverson**, Route 2, Box 428-P, Ft. Smith, Arkansas, stated that she is representing her mother who lives at the above stated location. She informed that a carport was recently constructed on her mother's property, and asked the Board to allow it to remain. A plat of survey (Exhibit X-1) was submitted.

Comments and Questions:

Mr. Chappelle asked how long the carport has been constructed, and the applicant replied that the carport was completed in August of this year. She explained that the existing garage and carport were destroyed by fire, and her mother paid the contractor to get a permit to convert the garage area into a den. She said that her mother did not know there was no permit for the carport.

Case No. 15247 (continued)

Mr. Chappelle inquired as to the length of time the previous carport had been on the property, and Ms. Alverson replied that it was there for a few years before the fire.

Ms. White stated that she has viewed the property and there is a carport next door to the subject property that extends further toward the street than the one under application.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential District - Use Unit 1206) of the required 50' front setback (measured from the centerline of East 6th Street) to 32' to permit an existing carport; per plat of survey submitted; finding that the new structure will replace the carport that was previously existing; and finding that are there are other carports in the immediate vicinity that have been constructed closer to the street than the one in question, and the granting of the request will not be detrimental to the neighborhood; on the following described property:

Lot 6, Block 10, Pamela Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15248

Action Requested:

Variance - Section 122.13 General Use Conditions for Business Signs - Use Unit 13 -Request a variance to permit a flashing sign within 200' of an "R" Zoned district.

Appeal - Section 1650 - Appeals From an Administrative Official - Request an appeal from the building inspectors interpretation in regards to a flashing sign, located Southwest corner of Garnett Road and I-44 Expressway.

Presentation:

The applicant, **Joe Westervelt**, QuikTrip Corporation, 901 North Mingo, Tulsa, Oklahoma, requested permission to install a gasoline price sign at the above stated location. He pointed out that the sign in question will be the same as other QuikTrip gasoline signs in the City. Mr. Westervelt stated that he is appealing the Building Inspector's interpretation that the sign is flashing, and noted that the time and temperature signs are currently allowed, while the QuikTrip gasoline signs are still being determined to be flashing. He stated that he is aware of the fact that a future sign ordinance is pending, but requested that the price changing sign currently used by QuikTrip be allowed by right during the interim.

Case No. 15248 (continued)

Comments and Questions:

Mr. Gardner stated that the Board has previously placed a condition on the approval of the gasoline price signs, which regulated the time period between changes (3 seconds on and 1 second off). He suggested that the previously approved signs may be changing more rapidly than the imposed condition allows.

Mr. Westervelt informed that the gasoline price change sequence for all QuikTrip signs has been adjusted to be completed in 10 seconds.

Ms. Hubbard advised that, according to the case map, the application may not be properly advertised.

There was discussion concerning the exact location of the sign, and if the application was properly advertised. It was determined that the case report map is incorrect and that the application was properly advertised.

Mr. Gardner pointed out that the sign ordinance, when adopted, could be more restrictive than the conditions imposed by this Board.

Mr. Jackere stated that the Board should determine the exact time interval between the changes of the gasoline prices.

Mr. Gardner pointed out that, in the previous variance approvals of the QuikTrip signs, the hardship was found to be the fact that the ordinance does not define a flashing sign; therefore, the Board has determined that the changing of the gasoline prices at a slow rate of speed is not a flashing sign.

Protestants:

One letter of protest (Exhibit G-1) from an area resident was submitted to the Board.

Mr. Jackere suggested that, if inclined to reverse the decision of the Building Inspector, the Board should be specific as to the nature of the frequency of the change.

Mr. Chappelle stated that he is inclined to uphold the decision of the Building Inspector, and approve the variance.

Mr. Westervelt reiterated that the three prices complete the change cycle in 10 seconds, and pointed out that a person could manually change the sign and cause no problem, but the fact that the sign is changed electronically seems to cause a problem.

Mr. Jackere asked if only this specific type of sign would be affected by the Board's decision, and Mr. Jackere replied that any sign that would meet the same criteria would be affected.

Case No. 15248 (continued)

Mr. Chappelle's motion to uphold the decision of the Building Inspector and approve the variance died for lack of a second.

Mr. Bolzle asked if the message that appears on the sign is lighted, and Mr. Westervelt replied that the QuikTrip logo at the top of the sign is lighted and the panel inside is made up of neon tubes with three prices that sequence down.

Mr. Westervelt informed that only 27" of the 21' sign changes.

Board Action:

Mr. Bolzle asked if the Board can reverse the decision of the Building Inspector in regards to the specific sign in question, or if the Board is trying to solve the situation for all similar businesses that have the same problem.

Mr. Jackere advised that QuikTrip has applied for, and received, variances for three signs that are almost identical to the one in question. He pointed out that, if the decision of the Building Inspector is overturned, and the sign is considered to be non-flashing, Mr. Westervelt can construct the sign; however, the Board can grant a variance, as they have in the past, and the sign can be installed. Mr. Jackere stated that he can support either of these two methods, and further noted that, if the price change sign is found to be non-flashing when it changes 3 times in 10 seconds, this determination will apply to all signs which are otherwise in compliance with the Code.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **REVERSE** the **Decision** of the Building Inspector and **GRANT** an **Appeal** (Section 1650 - Appeals From an Administrative Official) from the building inspectors interpretation in regards to a flashing sign; finding that a sign having characters that remain on for 3 full seconds and off 1 full second before the message changes, is not a flashing sign (letters or figures cannot roll up, but must be off for 1 full second); on the following described property:

The east 172.99' of the north 160' of Lot 2, Block 1, Interstate Park, formerly Strawberry Creek, an addition to the City of Tulsa, and all of Lot 3, Block 1, Interstate Park, formerly Strawberry Creek, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 15249

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In The Residential Districts - Use Unit 1206 - Request a variance of the required 20' rear yard setback to 11' in a RS-3 zoned district in order to permit an addition to an existing dwelling, located 1801 South 120th East Ave.

Presentation:

The applicant, **John Heller II**, 1801 South 120th East Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit H-1) and requested permission to construct an addition to an existing dwelling. He informed that he purchased the subject property in 1981 and, after making construction plans, found that the lot actually has 17' less land on the east than was stated at the time of purchase.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In The Residential Districts - Use Unit 1206) of the required 20' rear yard setback to 11' in a RS-3 zoned district in order to permit an addition to an existing dwelling; per plot plan submitted; finding a hardship imposed on the applicant by the curvature of the street and the irregular shape of the lot; on the following described property:

Lot 19, Block 1, Shannon Park IV, Wainright Section, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15250

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In the Residential District - Use Unit 1206 - Request a variance of the required 25' rear yard to 5' to permit an addition to an existing residence, 7157 South Evanston.

Presentation:

John Haught, of Nichols, Wolfe, Stamper, Nally and Falls Inc., 124 East 4th Street, Tulsa, Oklahoma, stated that he is representing the interested parties in this case, and asked that the hearing be continued to October 5, 1989. He informed that a representative from his office has spoken with Mr. Norman's office, and he is in agreement with the continuance. A letter (Exhibit J-1) was received by Staff.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **CONTINUE** Case No. 15250 to October 5, 1989, as requested by counsel for the interested parties.

Case No. 15252

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206 - Request a variance of the required 25' rear yard to 20' to permit a single-family dwelling in a RS-2 zoned district, located SW/c East 25th Street and South Columbia Avenue.

Presentation:

The applicant, **Cecile Boyd**, was represented by **Rex Ruiz**, 2809 East 21st Place, Tulsa, Oklahoma, who submitted a plot plan (Exhibit K-1), and stated that the property is located on a corner lot, with setbacks from two streets. He informed that the west side of the single-story garage will extend 5' into the required setback, and pointed out that the house on the abutting lot fronts on Birmingham and is not near the west boundary line of the subject property.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1- Bulk and Area Requirements in the Residential Districts - Use Unit 1206) of the required 25' rear yard to 20' to permit a single-family dwelling in a RS-2 zoned district; per plot plan submitted; finding a hardship imposed on the applicant by the curvature of the street and the corner lot location, with setback requirements on two street; on the following described property:

Lot 12, Block 1, New Bedford, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15254

Action Requested:

Special Exception - Section 1680.1 (L) - General - Request a special exception to permit residential accessory uses on abutting residentially zoned lots which are under common ownership, located North and East of East 17th Street and South 79th East Avenue.

Presentation:

The applicant, **John Tracy**, was represented by **Brent Howard**, 2658 South Columbia Place, Tulsa, Oklahoma. He explained that there are 116 apartment units to the north of the subject property and the proposed building will be used for a club house, offices and storage facility. A plot plan (Exhibit L-1) was submitted.

Case No. 15254 (continued)

Comments and Questions:

Ms. White asked Mr. Howard if he is amenable to the execution of a tie contract on the subject property and the abutting property to the north, and he answered in the affirmative.

Mr. Jackere informed Mr. Howard that a tie contract states that the owner cannot mortgage, sell or otherwise encumber one property without the other.

Mr. Jackere pointed out to the Board that two pieces of property under the same ownership could have been financed by two different lending institutions, in which case one property could be foreclosed upon without the other.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 1680.1 (L) - General) to permit residential accessory uses on abutting residentially zoned lots which are under common ownership; per site plan submitted; subject to the execution of a tie contract on the property containing the apartment complex and the subject property; finding the clubhouse and office space to be an extension of the abutting apartment complex, which is compatible with the surrounding area; on the following described property:

The N/2, SW/4, SE/4, NE/4, SE/4 and the north 20' of the S/2, SW/4, SE/4, NE/4, SE/4, less the west 30' thereof for road in Section 11, T-19-N, R-13-E, in the City and County of Tulsa, Oklahoma.

Case No. 15258

Action Requested:

Variance - Section 1130.2(B1) - Accessory Uses and 1221.3(K) - General Use Conditions for Business Signs - Use Unit 19 - Request a variance to permit a projecting roof and flashing sign as a part of a motion picture theater marquee within a PUD, located at 6800 South Memorial.

Presentation:

The applicant, **Charles Norman**, was not present.

Comments and Questions:

Mr. Gardner explained that this application deals with a Cinema Theater at the above stated location, which is within a Planned Unit Development. He pointed out that the Planning Commission has approved the sign for the theater, but a variance to permit a projecting roof and flashing sign on the marquee is required from this Board. Mr. Gardner stated that the Code considers the tracer lights used on the marquee to be flashing. He pointed out that the theater is located in the interior of the shopping center, approximately 400' away from Memorial.

Case No. 15258 (continued)

Tom DeChico, Dimension Realty, Dallas, Texas, stated that Mr. Norman is out of town, and he is representing the owner of the property. He stated that the theater consists of 27,000 sq ft of tenant space in the shopping center, and will open October 13, 1989. A sign plan (Exhibit M-1) was submitted.

Chris Bruck, 4703-H East 93rd Court, Tulsa, Oklahoma, stated that the tracing lights rotate to the center of the canopy and neon bands are continually lighted.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 1130.2(B1) - Accessory Uses and 1221.3(K) - General Use Conditions for Business Signs - Use Unit 19) to permit a projecting roof and flashing sign as a part of a motion picture theater marquee within a PUD; per sign plan submitted; finding that the theater is located toward the interior of the shopping center, with limited visibility from Memorial; finding that the granting of the variance request will not be detrimental to the area; on the following described property:

The south 400' of Block 1, The Village at Woodland Hills, an addition to the City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Proposed Settlement for Case No. 14604

Alan Jackere, City Legal Department, stated that in 1988 the Board heard Case No. 14604, which concerned the Bi-Lo Food Warehouse. He stated that the Code requires that a screening fence be erected on all boundaries that are abutting (touching or separated by a non-arterial street) residential districts, and the north and east one-half of the property in question would require screening (6' privacy fence). It was noted that the eastern boundary would have required screening from the northernmost point, approximately two-thirds of the way down. The applicant appearing at that time stated that he was not advised during the building permit process that a screening fence was required and the building was designed without screening being considered. Mr. Jackere stated that screening was mentioned on the Occupancy Permit, however, the building was occupied without the installation of screening. He pointed out that the applicant appeared before the Board for a variance of the screening requirement and the Board granted a modification of the screening fence at the northeast corner only (unloading access point). He explained that large delivery trucks enter and backed out into the residential neighborhood, causing a

Settlement - Case No. 14604 (continued)

problem for both the applicant and the residents of the area. Mr. Jackere stated that the applicant appealed the decision approximately two years ago, and the ownership has changed since that time. He pointed out that he has been working with Mr. Johnsen, the attorney that filed the appeal, and with the protestants. It was noted that Ms. Pace, and Ms. Pace's daughter, who is a resident of the area, were present at the meeting and voiced concerns that the crates and other items were visible. Mr. Jackere stated that he has met with the attorney and the interested parties and they have arrived at a satisfactory solution. He informed that all parties agreed with the requirement of a 6' stockade screening fence on the north and east sides of the property (except for the access points) tapering to 3' at the three access points to allow clear traffic visibility, as well as protect the neighborhood.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **AUTHORIZE** the **Settlement** of Case No. 14604; per court order.

There being no further business, the meeting was adjourned at 3:25 p.m.

Date Approved Oct. 19 1989

Janet Bradley
Vice - Chairman