CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 588
Tuesday, June 11, 1991, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle	Fuller	Gardner	Jackere, Legal Department
Bradley		Jones	Hubbard, Protective Inspections
Chappelle		Moore	Parnell, Code Enforcement
White, Chairman			

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, June 10, 1991, at 11:25 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Bradley, White, "aye"; no "nays"; Chappelle "abstaining"; Fuller, "absent") to **APPROVE** the Minutes of May 28, 1991.

UNFINISHED BUSINESS

Case No. 15731

Action Requested:

Variance of the required setback, as measured from the centerline of Utica Avenue, from 50' to 35', and a variance of the required setback, as measured from the centerline of 11th Street, from 50' to 35' - **Section 1221.C.6 General Use Conditions for Business Signs.**

Variance of the required 30' separation between signs to 20' to allow for two pole signs - Section 1221.C.10. General Use Conditions for Business Signs - Use Unit 21, located 1659 East 11th Street.

Presentation:

The applicant, **Claude Neon Federal**, 533 South Rockford, Tulsa, Oklahoma, was represented by **Joe Westervelt**, 901 North Mingo Road, Tulsa, Oklahoma, who requested that Case No. 15731 be continued to June 25, 1991. He explained that the sign is for a QuikTrip store, and the person that was to present the case is out of town.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **CONTINUE** Case No. 15731 to June 25, 1991, as requested by Mr. Westervelt.

Case No. 15666

Action Requested:

Variance of the required structure setback, as measured from the centerline of Utica Avenue, from 50' to 30', to permit additional parking spaces - **Section 215. STRUCTURE SETBACK FROM ABUTTING STREETS**, located 14 North Utica.

Presentation:

The applicant, **George Logan**, 2021 South Lewis, Tulsa, Oklahoma, was represented by **Joe Westervelt**, who stated that he was previously before the Board regarding parking use on the RM-2 property. He explained that parking for the QuikTrip was approved on the lot, however, a second application was filed requesting that two additional parking spaces be permitted in the area near the intersection. Mr. Westervelt submitted an amended site plan (Exhibit A-1), and informed that the Board previously agreed that one proposed parking space would block the view of motorists at the intersection and that only one additional space would be approved at this location. He informed that the case was continued to this date to allow sufficient time for advertising.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a Variance of the required structure setback, as measured from the centerline of Utica Avenue, from 50' to 30', to permit one additional parking space - **Section 215. STRUCTURE SETBACK FROM ABUTTING STREETS**; per amended site plan; finding that one additional parking space at this location will not obstruct the view of motorists at the intersection; on the following described property:

South 42' of Lots 1 and 2, Block 8, Lynch and Forsythe's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15672

Action Requested:

Special Exception to permit a home occupation (barber shop) - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 6503 East 5th Place.

Comments and Questions:

Mr. Jones informed that the application for a home occupation at the above stated location was previously approved by the Board. He explained that the Board required that a screening fence be erected between the parking area and the residence next door; however, Staff has received a letter form the abutting property owner who is opposed to the fence. Mr. Jones stated that the applicant has requested a waiver of the screening requirement.

Case No. 15672 (continued)

Presentation:

The applicant, Mr. Metzger, stated that he is agreeable to a waiver of the screening fence requirement.

Additional Comments:

Ms. Bradley pointed out that the property next door could be sold and the new property owner might want a screening fence between the two properties.

Mr. Jackere advised that anyone purchasing the property next door would be entitled to a screening fence, but the Board should base their conclusion on the facts that have been presented in this case.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-1-0 (Bolzle, Chappelle, White, "aye"; Bradley, "nay"; no "abstentions"; Fuller, "absent") to **REMOVE** the condition requiring a screening fence, which was previously imposed on Case No. 15672.

Lot 12, Block 5, Sheridan Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15727

Action Requested:

Special Exception to allow Use Unit 17 (automobile sales and repair business) in a CS District - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17.

Variance of the screening requirements along the property lines in common with an R District (west property line) - **Section 1217 C. 1. - USE UNIT 17 AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions** - Use Unit 17.

Variance to permit open-air storage or display of merchandise offered for sale within 300' of an R District - **Section 1217 C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES** - Use Unit 17.

Variance to waive the all-weather surface requirement for parking area for a period of two years - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17, located 2002 North Lewis Avenue.

Comments and Questions:

Mr. Jones informed that the application was previously approved, except for the portion regarding a waiver of the all-weather parking. He stated that the Building Inspector notified Staff that the hard surface parking has been installed and the applicant is no longer in need of that relief.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **WITHDRAW** this portion of Case No. 15727.

Case No. 15740

Action Requested:

Minor Exception to approve a revised site plan - **Section 1503. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS AND PERMITS** - Use Unit 4, located 1790 Newblock Park Drive.

Presentation:

The applicant, **Fred Stowell**, 411 South Frankfort, Tulsa, Oklahoma, stated that he was previously before the Board, and has returned with additional information concerning the case. He informed that the roadway that accesses the property from the west was purchased by the City for access to the garage facility. He submitted a location map and a general warranty deed (Exhibit B-1) for a 30' wide section of property, which was purchased by the City in 1971 to connect the roadway from Admiral to Newblock Park Drive. Mr. Stowell stated that the roadway is labeled as Police Garage Access Road on the submitted map, and it was the intent of the City to have a second access. He pointed out that he is only requesting that the City be allowed to continue the use, as has been done since 1971. Mr. Sowell stated that the amount of traffic will not be increased by the approval of this application, but the City does have more fire trucks than they had in 1971.

Comments and Questions:

Mr. Jones pointed out that the protestant at the previous meeting was concerned that moving the building to the northwest would increase the traffic flow in that area. He stated that it has now been confirmed that the 30' wide strip was specifically purchased by the City for a roadway.

Mr. Gardner informed that the initial public hearing in 1971 determined that the land use is appropriate for the area, and the facility is merely being upgraded at this time.

Mr. Jackere asked if anything has been added to the new site plan that would increase traffic, and Mr. Sowell replied that the only difference is the consolidation of two buildings, which would have no bearing on the amount of traffic.

Mr. Jackere asked if the shift in the location of the building will increase traffic at the westernmost access point, and the applicant stated that the revision of the site plan will have no affect on the amount of traffic in the area.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Minor Exception** to approve a revised site plan **- Section 1503. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS AND PERMITS** - Use Unit 4; per revised site plan submitted; finding that consolidation of two previously approved buildings on the tract will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Case No. 15740 (continued)

Starting at center of Section 3, T-19-N, R-12-E; thence due east 660'; thence due south 195'to the POB. Thence south 64°48'00" E 1222' thence south 60°12'00" E 350'; thence south 54°48'00" E 92'; thence south 45°00'00" E 80'; thence south 52°42'00" E 247; thence westerly along curving road R/W for 220.00' to north edge of drainage easement; thence N 41°09'07" W 13.00'; thence northwesterly along curving easement line for 99.127'; thence N 64°20'12" W 229.44'; thence northwesterly along curving easement line for 201.76'; thence N 66°23'03" W 890.04'; thence northwesterly along curving easement line for 207.48'; thence north 75°26'00" W 25.98'; thence due north 277.2' to POB, City and County of Tulsa, Oklahoma.

Case No. 15732

Action Requested:

Variance of the required front yard, as measured from the centerline of 44th Court, from 35' to 25' to permit construction of a new single-family dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2821 East 44th Court.

Presentation:

The applicant, **Michael Swinyard,** 4445 South Evanston, was represented by **Robert Nichols,** 111 West 5th Street, who stated that this case was continued from the previous meeting to allow him to gather additional information. He submitted photographs (Exhibit C-1) and explained that denial of the variance request would require the owner to devalue the worth of the lot in question, which would be in violation of the Code, Section 101. Mr. Nichols stated that, due to the rectangular shape of the lot and the slope to the rear, only a rectangular shaped house can be constructed.

Comments and Questions:

Ms. Hubbard informed that she was prepared to arrange for a member of Stormwater Management to be present, but the applicant indicated that he would prefer to revise the plans to comply with the Code and withdraw the application before the Board.

Mr. Nichols stated that he has contacted a hydrologist, and was advised that a home can be constructed on the lot without an extraordinary drainage problem being created by runoff from the adjoining lot.

Ms. Bradley inquired as to the size of the proposed residence, and Mr. Swinyard stated that the house will contain approximately 3300 sq ft of floor space. He stated that it is not feasible to build a smaller house on the lot.

Case No. 15732 (continued)

In response to Ms. Bradley, Mr. Nichols stated that the Board could impose a condition that no other lots in the subdivision will be granted variances after this hearing.

Mr. Jackere stated that this would not be an appropriate condition.

Mr. Swinyard remarked that this is the only remaining lot in the subdivision with a slope.

Mr. Nichols stated that, if the variance is not granted, the owner will be forced to construct a retaining wall on the rear portion of the lot in order to utilize the space for a back yard.

Ms. White, Ms. Bradley and Mr. Bolzle agreed that a hardship has not been presented, and that the major portion of the requested 10' variance is to be used for a porch, which could be eliminated.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-1-0 (Bradley, Bolzle, White, "aye"; Chappelle, "nay"; no "abstentions"; Fuller, "absent") to **DENY** a **Variance** of the required front yard, as measured form the centerline of 44th Court, from 35' to 25' to permit construction of a new single-family dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding that a house could be constructed on the lot without a variance, and that a hardship has not been presented that would warrant the granting of the request; on the following described property:

Lot 7, Block 1, Annandale Subdivision, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15734

Action Requested:

Variance of the required lot width from 60' to 47.1' to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 711 North Norwood.

Presentation:

The applicant, **Billie Hicks**, 711 North Norwood, was represented by **Nina Arnell**, 1021 South Hazel, Grove, Oklahoma, who stated that this action is requested to settle the estate of her mother.

Comments and Questions:

Mr. Bolzle asked why the lot is being split, and Ms. Arnell stated that her mother constructed a new house for sale on one side of the large lot, and had intended to build her residence on the remaining portion.

In response to Mr. Bolzle, Mr. Gardner stated that there are numerous 50' lots in the neighborhood, and the proposed lots both exceed the 6900 sq ft area requirement.

Case No. 15734 (continued)

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** of the required lot width from 60' to 47.1' to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding that there are many narrow lots in the area, and both lots will exceed the 6900 sq ft area requirement; and finding that approval of the variance request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

North 94.2' Lot 3, Fairland Addition, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15750

Action Requested:

Minor Variance of the required rear yard, as measured from the property line, from 25' to 20', to permit an addition to a single-family dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 3530 South Florence Avenue.

Presentation:

The applicant, **Densel Williams**, 2025 East 37th Street, submitted a site plan (Exhibit D-2) for the proposed construction, and stated that he is representing the owner of the property in question. He explained that his clients are planning to add a 19' by 19' bedroom to an existing dwelling. He informed that the abutting property owner is supportive of the application (Exhibit D-1).

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Minor Variance** of the required rear yard, as measured form the property line, from 25' to 20', to permit an addition to a single-family dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per site plan submitted; finding the house is on a corner lot facing east, which makes what would otherwise be a side yard into a rear yard; finding that the granting of the minor variance will not be detrimental to the neighborhood, and the proposed construction will align with the existing residence to the south; on the following described property:

Lot 10, Block 8, Charlane Estates Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15745

Action Requested:

Special Exception to permit a home occupation (trucking business) in a residential district - **Section 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 23.

Variance to waive the all-weather surfacing requirements for unenclosed off-street parking areas - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 23.

Variance to waive the screening requirements along lot lines in common with an R District - **Section 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 23, located 522 South 193rd East Avenue.

Presentation:

Mr. Jones informed that **Kenneth Todd,** counsel for the applicant, **Charles Herrington,** 522 South 193rd East Avenue, Tulsa, Oklahoma, requested by letter (Exhibit E-1) that Case No. 15745 be continued to August 13, 1991, to allow sufficient time to collect additional information.

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **CONTINUE** Case No. 15745 to August 13, 1991.

Case No. 15748

Action Requested:

Special Exception to permit church use and related activities in a residential district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the required front yard, as measured from the centerline of Vancouver Avenue, from 50' to 40' - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the minimum lot area from 1 acre to 0.8009 acres - **Section 1205.C. COMMUNITY SERVICES AND SIMILAR USES** - Use Unit 5, located 4733 South Vancouver Avenue.

Presentation:

The applicant, **Carbondale-Jehovah Witness,** was represented by **Spencer Bartek,** 3116 East 141st Street South, Bixby, Oklahoma, who stated that the church has been meeting on the subject property for approximately 35 years. He explained that an additional 108' of property has been acquired and construction of approximately 1000 sq ft of additional floor space will be added to the existing building. Mr. Bartek submitted a site plan (Exhibit F-1) for the proposed construction, and pointed out that a previous Board action granted a variance of the front yard requirement from 50' to 39'.

Case No. 15748 (continued)

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** to permit church use and related activities in a residential district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the required front yard, as measured from the centerline of Vancouver Avenue, from 50' to 40' - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the minimum lot area from 1 acre to 0.8009 acres - **Section 1205.C. COMMUNITY SERVICES AND SIMILAR USES** - Use Unit 5; per site plan submitted; finding that the church has been at the present location for approximately 35 years, and a previous Board action approved a variance of the front yard requirement from 50' to 39'; and finding that the granting of the requests will not be detrimental to neighborhood, or violate the spirit, purposes and intent of the Code; on the following described property:

Lot 6, Block 1, Greenfield Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15749

Action Requested:

Special Exception to allow a Use Unit 12 (tavern) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12, located 3332 South Memorial Drive.

Presentation:

The applicant, **Doug Jones**, 3412 South 148th East Place, Tulsa, Oklahoma, was represented by **Terry Maloy**, 1924 South Utica, Tulsa, Oklahoma, who submitted a layout of the center (Exhibit G-1) and photographs (Exhibit G-3). He explained that Village Inn is located next door to the north, a car dealership on the south, an office building to the east and residences across the street to the east. Mr. Maloy stated that a tavern was in operation on the property from 1975 to 1981, and ample parking for the proposed use is available.

Comments and Questions:

In response to Ms. Bradley, Ms. Hubbard informed that one parking space is required for every 75 sq ft of floor area.

In answer to Mr. Jackere, the applicant stated that the tavern will not have a dance floor.

Protestants:

Debbie Winters, 3247 South Memorial, Tulsa, Oklahoma, stated that she lives directly across the street from the strip center, and requested that the application be denied. She pointed out that the residents of the area are already being penalized because of the 24-hour operation of the Village Inn, which invites rowdy customers late at night.

Case No. 15749 (continued)

In response to Ms. Bradley, Ms. Winters stated that she has lived at the present location for eight years.

Othaleta Johnson, 3231 South Memorial, Tulsa, Oklahoma, stated that she lives across the street from the proposed location of the tavern, and the approval of the use would add to the existing crime rate in the area.

Craig Tomlinson submitted a location map (Exhibit G-2), and stated that he is representing the property owners to the west of the proposed site. He stated that they are concerned that 33rd Street could be used for overflow parking during peak business hours for the tavern. He informed that this street is used as a primary route for people going to the hotels in the area, and the congestion could create a traffic problem at this location.

Applicant's Rebuttal:

Mr. Maloy stated that taverns have previously operated in the center and the proposed business would be a proper land use for this location. He stated that the four lane road would serve as a buffer for the residential area to the east

Ms. Bradley asked the applicant to state the hours of operation, and he replied that the tavern will be open from 10:00 a.m to 2:00 a.m., Monday through Saturday, and 2:00 p.m. to 2:00 a.m. on Sunday.

Mr. Bolzle asked if the applicant owns the building, and Mr. Maloy stated that Mr. Jones is a prospective tenant. Mr. Bolzle pointed out that the INCOG records do not reflect Board of Adjustment approval for the taverns which previously operated at this location. He stated that the use does not seem to be appropriate for the area, due to location of the residential neighborhood directly across the street.

Ms. White stated that she cannot support the proposed use at this location.

Ms. Bradley remarked that the residents in the neighborhood across the street did not state that they were concerned with additional traffic that might be generated by the use.

Mr. Chappelle stated that the center has adequate parking to support the use.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 2-2-0 (Bolzle, White, "aye"; Bradley, Chappelle "nay"; no "abstentions"; Fuller, "absent") to **DENY** a **Special Exception** to allow a Use Unit 12 (tavern) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12.

The application was denied for lack of three affirmative votes to approve.

Case No. 15749 (continued)

Mr. Maloy asked if the case can be continued until the 5th Board member is present, and Mr. Jackere advised that the case has been denied.

Two tracts of land in the SE/4 of the NE/4 Section 23, T-19-N, R-13-E of the IBM, City of Tulsa, County of Tulsa, Oklahoma more particularly described as follows, to-wit: Beginning at a point 150' south and 50' west of the NE/c of the SE/4 of the NE/4 of said Section; thence south and parallel with the east line of said Section 150' to a point; thence west 250' to a point; thence north 150.22' to a point; thence south 89°57'00" east 250' to the POB; **AND** Beginning at a point 300' south and 50' west of the NE/c of the SE/4 NE/4 of said Section 23; thence south and parallel with the east line of said Section 50' to a point; thence west 250' to a point; thence north 50' to a point; thence east 250' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15751

Action Requested:

Special Exception to permit a home occupation (radiator repair) in a residential zone - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 912 West 24th Street.

Presentation:

The applicant, **James A. Goldstein,** 912 West 24th Street, Tulsa, Oklahoma, stated that his home occupation was previously approved for three years, and requested permission to continue to operate the business at the above stated location. He stated that the business has not changed since the prior approval, and the home owners in the neighborhood are supportive of the application (Exhibit H-1).

Comments and Questions:

Ms. Bradley asked if all repairs are made inside the building, and the applicant replied that he has complied with all conditions of the previous approval.

Mr. Gardner advised the Board that they should determine if the use is compatible with the area, because the proposed ordinance changes will not permit the applicant to request this type of relief in the future.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** to permit a home occupation (radiator repair) in a residential zone - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; subject to no impact wrenches being used, all radiators picked up and delivered, no outside storage of automobiles or parts, all repairs made inside the building, subject to Home Occupation Guidelines and subject to water and Sewer Department approval for disposal of all liquid waste;

Case No. 15751 (continued)

finding that the radiator repair shop has been in operation at the present location for three years and has proved to be compatible with the surrounding neighborhood; on the following described property:

Lot 1, Block 3, Westdale Addition, and the east 20' Lot 1, Block 49, Amended Plat of West Tulsa Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15752

Action Requested:

Special Exception to allow a modification of the off-street parking requirements to permit the occupancy of the Domestic Violence Intervention Service space by the 15th Street Wok without providing additional off-street parking - **Section 1407. PARKING, LOADING AND SCREENING NONCONFORMITIES, UNDER THE PROVISIONS OF SECTION 1608.A.9 SPECIAL EXCEPTION** - Use Unit 12, located NE/c East 15th Street and South Quaker Avenue.

Presentation:

The applicant, **Charles Norman,** 2900 Mid-Continent Tower, Tulsa, Oklahoma, submitted a plot plan (Exhibit J-1) and a letter explaining the proposed construction (Exhibit J-3), which was mailed to the surrounding property owners. He submitted photographs (Exhibit J-4) of buildings in the historical neighborhood, and pointed out that the business in question has been operating in the eastern portion of the existing building since 1984. Mr. Norman informed that the restaurant closes at 10:00 p.m. on week days and is open no later than 11:00 p.m. on the weekend. The applicant stated that the restaurant is currently nonconforming as to parking, however, the change in use will require the business to comply with the current parking ordinance. He informed that the restaurant does not have a sit-down bar or live entertainment. The applicant stated that the Board must determine if the addition of the private dining areas, the enlargement of the kitchen and the addition of the proposed carryout area would increase incompatibility in regard to parking. Mr. Norman pointed out that the remainder of the floor area on the ground floor is occupied by antique stores, which are low generators of traffic and are closed in the evening hours. He informed that there are 21 parking spaces presently available, and during random checks it was found that parking spaces are always available in the parking lot to the north. Mr. Norman stated that his clients are amenable to prohibiting a sit-down bar and live entertainment.

Protestants:

Patricia Hickey represented the Swan Lake Neighborhood Association. She stated that the restaurant is a valued neighbor, however, parking is a major issue. She pointed out that a 32 unit hotel and two antique stores share the parking lot with the 15th Street Wok and, due to the long walk from this lot, restaurant patrons seem to prefer parking on the street. Ms. Hickey stated that a carryout business could generate a great deal of traffic and add to the existing traffic problem in the area. Ms. Hickey read a letter (Exhibit J-5) from **Barbara Day,** chairman of the Swan Lake Homeowners Association, requesting denial of the application.

Case No. 15752 (continued)

Don Greer, 1338 East 15th Street, Tulsa, Oklahoma, stated that he owns the Sound Warehouse, which is located across the street from the subject property. He stated that the 15th Street Wok is a good restaurant, however, he is concerned about the number of their customers that continue to park in his parking lot.

Bob Hawks stated that he owns the building across the alley from the restaurant, which has two parking lots. He pointed out that some of the Wok customers have been towed from his lot, however, his main concern is the proposed carryout business.

Applicant's Rebuttal:

Mr. Norman submitted a letter (Exhibit J-3) from the manager of the Colonial Inn, which stated that the building is rented for sleeping rooms and only four of the current residents have automobiles. Mr. Norman informed that his clients have agreed to delete the carryout service if it is a Board concern.

Ms. White stated that, although she is supportive of the concept, the carryout service at this location would not be compatible with the area.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** to allow a modification of the off-street parking requirements to permit the occupancy of the Domestic Violence Intervention Service space by the 15th Street Wok without providing additional off-street parking - **Section 1407. PARKING, LOADING AND SCREENING NONCONFORMITIES, UNDER THE PROVISIONS OF SECTION 1608.A.9 SPECIAL EXCEPTION** - Use Unit 12; per plan submitted, subject to the deletion of the carryout service; finding that the additional dining and kitchen space will not significantly increase the need for additional parking spaces; and finding a hardship imposed by the development of the older area with limited parking facilities; on the following described property:

Lots 13 - 15, Block 7, Bellview Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15753

Action Requested:

Special Exception to allow a parking lot in an RM-1 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the required setback, as measured from the centerline of East 4th Street, from 50' to 23', and a variance of the required setback, as measured from the centerline of 49th west Avenue, from 100' to 23' - **Section 1302. SETBACKS** - Use Unit 5, located 401 South 49th West Avenue.

Case No. 15753 (continued)

Presentation:

The applicant, **Ken Horn,** 123 South 49th West Avenue, Tulsa, Oklahoma, was represented by **Louise Strout,** Route 6, Box 152, Sand Springs, Oklahoma, who submitted photographs (Exhibit K-2) and a parking layout (Exhibit K-1). She stated that the church has been at the present location for approximately 40 years and a severe parking problem has developed. She pointed out that the proposed parking lot will benefit the area, since parking frequently overflows into the neighborhood when special events are held at the church. Ms. Strout explained that the overflow parking spaces will be located in the front yard of a the small house, which was recently purchased to alleviate the parking problem.

Comments and Questions:

Ms. Bradley asked if the house will remain on the lot, and Ms. Strout stated that the house is used for rental purposes, which is used to make the loan payment on the property.

In response to Ms. Bradley, Mr. Gardner stated that the two uses on the church property are permitted. He advised that, if inclined to approve the application, the Board should limit the parking to church use only. He further noted that the church would be required to screen the south boundary.

Ms. Bradley asked if the lot will be covered with a hard surface material, and Ms. Strout stated that the lot has been filled and will be surfaced when the fill dirt settles.

Ms. Hubbard stated that she had informed the church that a 6' screening fence will be required, but did not get a reply as to their intent.

Mr. Gardner informed that a screening fence is required if six or more parking spaces are installed, and in this case the entire lot along the south property line must be screened. He stated that the applicant would have to make application for a waiver of the screening requirement, or put in the fence.

Mr. Horn informed that the church is not opposed to the installation of a screening fence as required.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE,** the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** to allow a parking lot, for church parking only, in an RM-1 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the required setback, as measured from the centerline of East 4th Street, from 50' to 23', and a variance of the required setback, as measured from the centerline of 49th West Avenue, from 100' to 23' - **Section 1302. SETBACKS** - Use Unit 5; per parking plan submitted; finding that the lot in question is owned by the church and abuts church property, and the proposed parking lot

Case No. 15753 (continued)
will not be detrimental to the neighborhood, or violate the spirit, purposes and intent of the Code; on the following described property:

Lot 24, Block 8, Verndale Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15754

Action Requested:
Variance of the 500' separation required between a sexually oriented business and a residentially zoned area in order to allow a new business - **Section 705.B.5 LOCATION OF SEXUALLY-ORIENTED BUSINESS, Prohibition, 500' From Area Zoned Residential** - Use Unit 12, located 3900 South Sheridan.

Presentation:
The applicant, **Allworld Enterprises, Inc.,** Route 8, Box 317, Claremore, Oklahoma, was represented by **Brian Curthoys,** 1611 South Harvard, Tulsa, Oklahoma. Mr. Curthoys submitted a plat of survey (Exhibit L-2), and explained that the Scottish Rite Masonic Temple is within 500' of the proposed site for a sexually-oriented business. He stated that a special exception was granted in 1963 to permit construction of the Masonic Temple in a residentially zoned area. Mr. Curthoys informed that the building which will house the business in question is across the expressway (361') from the RM-2 zoned property. He pointed out that this property, although zoned residential, is not used for residential purposes and is surrounded by commercial zoning to the east and west. Mr. Curthoys stated that the proposed use complies with all other Code requirements.

Protestants:
Ms. White informed that one letter of protest (Exhibit L-1) was received by the Board.

James Tollette, 6361 South Sheridan, Tulsa, Oklahoma, stated that he is affiliated with the Freedom Church, which is located in the shopping center that is within 500' of the proposed sexually-oriented business. He voiced a concern that patron parking could overflow into surrounding parking lots during peak periods of operation. It was suggested that these individuals might also leave undesirable materials in the church parking lot, which might fall into the hands of the young people of the congregation.

Comments and Questions:
In response to Ms. Bradley, Mr. Gardner clarified that the 500' measurement would be taken from the building housing the sexually-oriented business to that portion of the shopping center that is being used for the church.

Ms. White stated that, according to the documents presented, the portion of the shopping center reserved for church use is not within 500' of the proposed sexually-oriented business.

Case No. 15754 (continued)

John Alexander, Executive Director, Scottish Rite Masonic Temple, informed the Board that the measurement from building to building is 436', and explained that the organization is especially concerned with the a sexually-oriented business at this location, because a clinic for childhood learning disorders is conducted in their building. He informed that school services are actually performed through speech and hearing therapy.

Bobbie Raines, Director of the Scottish Rite clinic for childhood language disorders, stated that the children receiving therapy at this location range in age from 18 months to 12 years. She informed that approximately 150 children pass through the clinic each week, and their operation is similar to a school. Ms. Raines stated that the sexually-oriented business would have a negative impact on the wholesomeness of the environment for the children.

Ms. Bradley asked Ms. Raines if children come and go, or are they on the premises for the entire day, and she replied that they receive individual treatment and leave the building.

Elda Mae Arnett, 3928 South Sheridan, Tulsa, Oklahoma, stated that she owns a business to the south of the proposed use, and feels the business will be a moral detriment to the area.

David Carpenter, 4157 South Harvard, Suite 125, Tulsa, Oklahoma, commented that the nature of the business will include dancing, and suggested that there could be a moratorium on the approval of dance halls.

Mr. Jackere advised that the moratorium was designed to protect residences against dance halls, but not businesses that have a dance floor for entertaining customers. He informed that the moratorium prohibits dance halls from being located within 300' of a residential area.

Jim Shore, stated that he owns the business across the street from the proposed use and feels his parking lot will be used by their customers. He asked the Board to deny the application.

Applicant's Rebuttal:

Mr. Curthoys informed that the Code defines a school as being one that offers compulsory education curriculum, and this organization does not meet this requirement.

Additional Comments:

Ms. Bradley commented that the Masonic Temple is not using the residential property for residential purposes, and the clinic does not meet the qualifications of a school. She pointed out that the Board does not legislate morality, but only makes decisions on land use. She informed that the property in question is isolated from uses to the north by the expressway, and the property to the immediate south of the tract is zoned CH.

Case No. 15754 (continued)

Ms. White pointed out that the use is permitted by right in a commercial district.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-1-0 (Bradley, Bolzle, White, "aye"; Chappelle, "nay"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** of the 500' separation required between a sexually oriented business and a residentially zoned area in order to allow a new business - **Section 705.B.5 LOCATION OF SEXUALLY-ORIENTED BUSINESS, Prohibition, 500' From Area Zoned Residential** - Use Unit 12; subject to the business being conducted in the existing building, with no expansion; finding that the residential property located within 500' of the sexually-oriented business is not used for residential purposes, but is a Scottish Rite Masonic Temple; and finding that therapy treatment for children in the Masonic Temple does not constitute a school; and finding that a sexually-oriented business is allowed by right in the CH District; on the following described property:

Part of the SE/4 of the SE/4, Section 22, T-19-N, R-13-E of the IBM, City of Tulsa, County of Tulsa, Oklahoma more particularly described as follows, to-wit: Commencing at a point 528.18' north of the SE/c of the SE/4 SE/4 of said Section 22, being the SE/c of the north 24 acres of the SE/4 SE/4 of said Section 22; thence westerly a distance of 35' to the POB; thence westerly to a point on he southerly R/W line of the U.S. Highway 66 By-pass, thence north 48°34'30" east along the southerly R/W line of the U.S. Highway 66 By-pass to a point, said point being 35' west of the East line of said Section 22; thence southerly and parallel to the east line of said Section 22 to the POB, less and except a tract beginning at the POB; thence west 320'; thence north 220'; thence east 320'; thence south 220' to POB; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15756

Action Requested:

Variance of the required setback from abutting R zoned district from 75' to 13'6" - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 23.

Variance to waive the screening requirements along property lines in common with an R zoned district - **Section 1223.C. WAREHOUSING AND WHOLESALING, Use Conditions** - Use Unit 23, located north of the northwest corner of Haskell Street and St. Louis Avenue.

Presentation:

The applicant, **William Robison**, 4808 South Elwood, Tulsa, Oklahoma, submitted a plot plan (Exhibit R-1) for the proposed construction. He informed that the required 75' setback line is 25' inside the existing building, and asked the Board to approve the same setback for the new structure.

Case No. 15756 (continued)

Comments and Questions:

Ms. Bradley asked if the houses to the north are vacant, and the applicant answered in the affirmative.

Mr. Gardner informed that the property in question is the lot to the north of the existing building.

Ms. Bradley asked if IL zoning on the lot has been approved, and Mr. Robison stated that the zoning request was approved.

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** of the required setback from abutting R zoned district from 75' to 13'6" - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 23; and to **APPROVE** a **Variance** to waive the screening requirements along property lines in common with an R zoned district - **Section 1223.C. WAREHOUSING AND WHOLESALING, Use Conditions** - Use Unit 23; per plot plan submitted; finding a hardship demonstrated by the fact that the existing building on the property was constructed prior to the current zoning requirements, and the new building will align with the old structure; and finding that the house abutting the subject property to the north is not habitable, and the immediate area is in transition from residential to industrial; per plot plan submitted; on the following described property:

Lot 7, Block 9, Ingram-Lewis Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15757

Action Requested:

Special Exception to permit an auto detail business as a home occupation in a residential zone - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6.

Variance of the Home Occupation requirements to allow a business sign - **Section 404.B.2 - SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6, located 13624 East 15th Street.

Presentation:

The applicant, **Michael A. Vincenty,** 13624 East 15th Street, Tulsa, Oklahoma, stated that he started his business in November of 1990, and details one car at his residence each day. The applicant informed that he vacuums and washes the car at a car wash, then completes the detailing process at his home. He informed that it was not obvious that a business was operating at this location until a small sign was installed in the yard.

Comments and Questions:

Ms. White asked if he has employees, and the applicant stated that only family members work in the business.

Case No. 15757 (continued)

Mr. Jackere asked Mr. Vincenty if he works exclusively for dealers, and he replied that he does some work for individuals.

Mr. Vincenty stated that he is attempting to start his detailing operation at home and later move to a business location.

Mr. Jackere asked if the work can be completed inside the garage, and the applicant stated that he does the major portion of his work inside; however, during warm weather the garage door is kept open.

Protestants:

Chauncey Duncan, 9507 East 25th Street, Tulsa, Oklahoma, stated that he is representing Rex Alexander, American Neighborhood Home Builders, who has been constructing homes in the area for the past three years. He asked the Board to deny the application and preserve the residential atmosphere of the neighborhood.

Comments and Questions:

Ms. Bradley asked the protestant if he lives in the area, and he replied that he lives near the development.

Mr. Bolzle asked if the applicant's description of his business is correct, and Mr. Duncan answered in the affirmative.

Candy Parnell, Code Enforcement, stated that she cited Mr. Vincenty for conducting a home occupation, however, except for the sign, there was no indication that a business was being operated on the property.

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** to permit an auto detail business as a home occupation in a residential zone for three years **only - Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; and to **DENY** a **Variance** of the Home Occupation requirements to allow a business sign - **Section 404.B.2 - SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6; subject to no more than one car per day being detailed, and subject to all work being completed inside the garage; finding that a sign is not appropriate for the residential neighborhood; and finding the home occupation, as described, will not be injurious to the neighborhood, or violate the spirit and intent of the Code; on the following described property.

Lot 5, Block 8, Eastland Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15758

Action Requested:

Special Exception to allow a dwelling use in a CH District - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 6.

Variance to waive the screening requirements along property lines in common with an R District - **Section 212. SCREENING WALL OR FENCE** - Use Unit 6, located 1140 South Peoria.

Presentation:

The applicant, **Doris H. Edson,** 5718 East 61st Court, Tulsa, Oklahoma, requested permission to have a dwelling in the CH zoned district. She informed that the present owner lived in the house and operated a veterinarian business on a portion of the property. Ms. Edson stated that one client was proposing to operate a photo business in the residence; however, at this time it is unknown what type of business will be operating in the dwelling.

Comments and Questions:

Mr. Gardner asked the applicant if she is proposing to leave the property as it is, without screening, and she answered in the affirmative.

Ms. Hubbard stated that a change in use would require a screening fence.

Ms. Bradley remarked that she would not be inclined to waive the screening requirement until the use is known.

Interested Parties:

Larry Lundgren, 1148 South Peoria, Tulsa, Oklahoma, stated that the house has never been used for business purposes, and a screening fence is not necessary.

Ms. Hubbard stated that, during a conversation with the applicant, she indicated that the property has been used as a residence and a business.

Mr. Gardner stated that, if inclined to do so, the Board can approve residential use for the property and it can be used for commercial or residential purposes.

Mr. Jackere informed that a screening fence will be required if the property is ever used for a business.

Board Action:

On **MOTION** of **BOLZLE,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **APPROVE** a **Special Exception** to allow a dwelling use in a CH District **- Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 6; and to **DENY** a **Variance** to waive the screening requirements along property lines in common with an R District - **Section 212. SCREENING WALL OR FENCE** - Use Unit 6; finding that the house has been used for residential purposes for many years, and the granting of the request will not be detrimental to the surrounding area, or violate the spirit and intent of the Code; on the following described property:

Case No. 15758 (continued)

Lot 6, Block 4, Ridgewood Addition of Tracy Park, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 15746

Action Requested:

Jack Ramsey, Ramsey Surveying Service, PO Box 366, Bixby Oklahoma, requested by letter (Exhibit O-1) that the application for **Betty P. Lilly Trust** be withdrawn and fees refunded.

Comments and Questions:

Mr. Jones informed that the Case No. 15746 was withdrawn prior to processing, and suggested that fees in the amount of $150.00 be refunded.

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **REFUND** filing fees for Case No. 15746 in the amount of $150.00.

Case No. 15747

Action Requested:

The applicant, **Little Light House,** requested a withdrawal of Case No. 15747 and a refund of filing fees.

Comments and Questions:

Mr. Jones informed that Case No. 15747 was withdrawn prior to processing and recommended a refund of $150.00 in filing fees.

Board Action:

On **MOTION** of **BRADLEY,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **REFUND** of filing fees in the amount of $150.00.

Election of Officers

On **MOTION** of **BRADLEY,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **ELECT Bruce Bolzle** to the office of chairman for the City Board of Adjustment.

On **MOTION** of **BOLZLE,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **ELECT Sharry White** to the office of vice-chairman for the City Board of Adjustment.

On **MOTION** of **BOLZLE,** the Board voted 3-0-0 (Bradley, Bolzle, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **ELECT Brad Fuller** to the office of secretary for the City Board of Adjustment.

Additional Comments:

Ms. White informed that she has met with Mayor Randle, Councilor Watts and Councilor Benjamin concerning sexually oriented businesses. She stated that the Mayor has requested that police reports be made available to the Board for each hearing concerning an existing business of this type, and that all residential property owners within 500' of a sexually-oriented business be notified of any upcoming action.

There being no further business, the meeting was adjourned at 4:20 p.m.

Date Approved June 25, 1991

Chairman