

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 590  
Tuesday, July 9, 1991, 1:00 p.m.  
City Council Room, Plaza Level  
Tulsa Civic Center

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Bolzle, Chairman Bradley Fuller	Chappelle White	Gardner Jones Moore	Jackere, Legal Department Hubbard, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, July 5, 1991, at 3:05 p.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bolzle, Bradley, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **APPROVE** the Minutes of June 25, 1991.

**UNFINISHED BUSINESS**

**Case No. 15729**

**Action Requested:**

Special Exception to permit a Use Unit 5 (residential treatment center) in a residential district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 1414 South Galveston.

**Comments and Questions:**

Mr. Jones informed that Norma Turnbo, chairman for Planning District 7, has requested that Application No. 15729 be continued to allow the Oklahoma Historical Society to hear the case. He added that Staff has also received correspondence from the applicant, Radar Institute, requesting that the case be heard as scheduled.

**Interested Parties:**

**Norma Turnbo**, 1822 South Cheyenne, Tulsa, Oklahoma, chairman for Planning District 7, stated that the Oklahoma Historical Society will hear the case at their July 24 meeting, and requested a continuance of Board of Adjustment Case No. 15729 to August 13, 1991.

Case No. 15729 (continued)

Ms. Bradley asked if the Historical Society will definitely hear the case on July 24, and Ms. Turnbo replied that this item was continued from the June meeting and is on the July agenda. She pointed out that the case must be heard and approved by the Oklahoma Historical Society and the City of Tulsa, as well as the City Board of Adjustment. Ms. Turnbo stated that Mayor Randle has determined that the City will not vote on the issue until it is heard by the Historical Society.

In response to Mr. Fuller, Mr. Jackere explained that previous owners of the property executed a private easement that ran to the benefit of the Oklahoma Historical Society and the City of Tulsa, which regulated use and exterior changes. He pointed out that the City and the Historical Society must approve any change in the easement.

Ms. Turnbo informed that federal money, in excess of \$100,000, was paid to the owners for the easement.

**Presentation:**

The applicant, **Radar Institute**, 744 West 9th Street, Tulsa, was represented by **Veronica Jeffus**, program manager for the Radar Institute Eating Disorder Treatment Center, currently located in the Regional Medical Center. She asked if Ms. Turnbo is acting as a formal representative of some organization, or is she acting on her own behalf. Ms. Jeffus pointed out that she has not submitted evidence that other parties are included in the request for a continuance.

Ms. Bradley stated that numerous protestants were in attendance at the previous meeting, and Ms. Jeffus pointed out that those protestants were attending the meeting in regard to another use on the property.

Ms. Turnbo stated that she is representing District 7, and has had many conversations with residents of the area concerning this issue. She pointed out that she represents those individuals in District 7, as well as herself.

Mr. Jackere asked Ms. Turnbo if she is acting on behalf of the Preservation Commission, and she replied that she is appearing on behalf of the residents of District 7.

Ms. Jeffus stated that ongoing continuances pose a hardship for the seller of the property, as well as any potential buyer, and requested that the application be heard as scheduled. She informed that Ms. Bradley stated at a previous meeting that the Board deals with land use questions, and is not concerned with the private easement. Ms. Jeffus pointed out that, in response to her letters, both Mayor Randle and Mr. Jackere stated that the intended use is permitted by special exception, with Board of Adjustment approval, and that the historical easement is a separate issue.

**Marilyn Fowler**, Tulsa Regional Medical Center, reiterated that there are two separate matters related to this project, one being the Radar Institute use which will be decided by this Board, and the private agreement involving the City Council and the Historical Society.

Case No. 15729 (continued)

In response to Ms. Bradley, Mr. Jackere advised that there was a question as to whether the easement could be amended at the initial hearing concerning the McBirney Mansion for club use. He stated that, at that time, it was determined that there would be no need for a Board of Adjustment hearing if an easement was not permitted. Mr. Jackere pointed out that the previous hearing should have no bearing on whether or not the Board hears this case today.

Mr. Bolzle asked Ms. Jeffus if a representative from the Radar Institute appeared at the previous meeting concerning this application, and she replied that a representative was present, but the case was continued at Ms. Turnbo's request.

In response to Mr. Fuller, Ms. Jeffus stated that it is her opinion that the requested use would not require an amendment of the easement.

Mr. Jackere advised that the issue before the Historical Society is whether or not they wish to allow this particular use on the property, whatever changes are being proposed, and if these changes are consistent with the restrictive covenant. He agreed with Ms. Jeffus that this is a different issue from the one before the Board at this time.

Ms. Turnbo stated that the restrictive covenant does govern the land use for this property, which is a concern of the City of Tulsa and the State of Oklahoma. She pointed out that the agreement permits only office and residential use on the subject property.

In response to Mr. Bolzle, Ms. Turnbo stated that the Attorney General of the State of Oklahoma ruled that the Oklahoma Historical Society must determine if the easement can be amended and what costs would be involved.

In reply to Mr. Fuller, Mr. Jackere advised that the applicant has stated the continuance of the case imposes a financial hardship on the buyer and seller, and has requested that the case can be heard today if the Board determines to do so.

Mr. Gardner stated that the previous application for a private club would definitely require a change in the easement; however, the issue today may or may not require an amendment to the agreement.

After a lengthy discussion, it was the consensus of the Board that the application be continued to August 13, 1991, at which time it will be heard, with no additional continuances, unless new evidence is presented which would warrant another delay.

Mr. Jackere pointed out that, although the application is on the July agenda to be heard by the Historical Society, the City Council will probably not have an opportunity to hear the case by August 13th.

Case No. 15729 (continued)

Ms. Turnbo stated that she and the neighborhood are looking forward to a speedy resolution of the issue.

**Board Action:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Bolzle, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **CONTINUE** Case No. 15729 to July 13, 1991, at which time no further continuances will be granted without new information.

**Case No. 15728**

**Action Requested:**

Special Exception to permit parking in an RM-2 District - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 10.**

Variance of the required 50' setback from the centerline of East 13th Street to 30' to permit a parking lot - **Section 1302. SETBACKS - Use Unit 10.**

Variance of the screening requirements along the south and west property lines for a parking lot - **Section 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 10, located 214 West 13th Street.**

**Comments and Questions:**

Mr. Jones informed that Mr. Kinney's application cannot be heard, since Mr. Bolzle must abstain from hearing the case and the Board would lose quorum.

**Board Action:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Bolzle, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **CONTINUE** Case No. 15728 to July 23, 1991.

**Case No. 15765**

**Action Requested:**

Variance of the maximum allowable height of a ground sign from 25' to 35' to permit a 10' increase in height of existing sign - **Section 1103.B.2.b. Uses Permitted in a Planned Unit Development - Accessory Uses - Signs - Use Unit 21, located 8514 East 71st Street.**

**Comments and Questions:**

Mr. Jones informed that Mr. Montgomery's sign plan was denied by the Planning Commission and he is no longer in need of the variance request.

**Board Action:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Bolzle, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **WITHDRAW** Case No. 15765; finding that the applicant is no longer in need of the relief requested.

## NEW APPLICATIONS

Case No. 15774

### Action Requested:

Special Exception to permit church use (parking) in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 5.**

Variance of the required all-weather surface material - **Section 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 5.**

Variance to waive the screening requirement along lot lines in common with abutting RS-3 zoned property - **Section 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 5**, located north of NW/c of 61st Street and Mingo Road.

### Presentation:

The applicant, **Duane Brogdon**, 9605 East 61st Street, Tulsa, Oklahoma, pastor for the Woodland Park Assembly of God Church, stated that the church has purchased two adjacent lots for use as additional parking. The applicant explained that the lot currently used for parking has limited street access, and the two lots will provide an additional 60 parking spaces and an access point on Mingo Road. He explained that the church owns the house to the north of the subject property, and requested that screening be waived between the two church properties. Mr. Brogdon stated that he is requesting a variance of the all-weather surface because the contractor has advised him that virgin soil should have a gravel base approximately one year before the hard surface material is installed.

### Comments and Questions:

In response to Ms. Bradley, the applicant stated that a small percent of the lot is currently located in the floodplain, but proposed revisions may exclude the property from the flood area.

Mr. Gardner pointed out that the house on the north portion of the church owned property will serve as a buffer for the residential property further north.

Ms. Bradley remarked that she is concerned with dusting in the residential area across the street on Mingo Road.

Mr. Brogdon requested that Mr. Denny, a building contractor, address the subject of gravel parking for one year.

### Interested Parties:

**George Denny**, 12777 South 200th East Avenue, Broken Arrow, Oklahoma, stated that all asphalt surfaces have a gravel base that is watered, rolled and packed; however, the same result can be economically accomplished by normal driving over the gravel for a period of approximately one year. He pointed out that the church is not financially able to installed the lot using the fast method.

Case No. 15774 (continued)

**Board Action:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Bolzie, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **APPROVE** a **Special Exception** to permit church use (parking) in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; to **DENY** a **Variance** of the required all-weather surface material - **Section 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5; and to **APPROVE** a **Variance** to waive the screening requirement along lot lines in common with abutting RS-3 zoned property - **Section 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5; per plot plan submitted; finding a hardship demonstrated by the fact that that the required screening would actually screen two properties owned by the church; and finding the parking use would be compatible with the surrounding neighborhood, but the proposed gravel covering would create a dust problem for surrounding residents; on the following described property:

Lots 11 and 12, Block 2, Anderson Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15775**

**Action Requested:**

Request a variance of the required setback (front yard) as measured from the centerline of East 31st Street South from 85' to 58' and a variance of the required setback (yard) as measured from the centerline of Victor Avenue from 45' to 33' to permit an existing dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1712 East 31st Street South.

**Presentation:**

The applicant, **John B. DesBarres**, 1924 South Utica, Suite 1000, Tulsa, Oklahoma, was represented by **Jerry Raymond**. Mr. Raymond stated that Mr. DesBarres is not present because of a death in the family and, although he is not familiar with the case, their client would like to have the issue resolved at this meeting. He informed that the current owner purchased the property in December and the survey (Exhibit C-1) disclosed the encroachment.

**Comments and Questions:**

Ms. Bradley asked if the carport was in place at the time of purchase, and Mr. Raymond answered in the affirmative.

Mr. Gardner asked Mr. Raymond if the owner has permanent financing, and he replied that his client did finance the property.

Ms. Bradley stated that she does not object to the encroachment for the original house on 31st Street, which has been at this location for many years, but cannot support the location of the carport in the right-of-way, which was added more recently.

Case No. 15775 (continued)

Mr. Bolzle asked if the carport covers three cars, and Mr. Raymond answered in the affirmative.

Mr. Gardner advised that, if the carport was removed to align with the building wall of the original house, it would still extend almost to the right-of-way, but not into it, and the applicant would need less relief.

Mr. Bolzle stated that the existing house appears to encroach into the required setback.

In response to Ms. Bradley, Mr. Raymond stated that the house was constructed approximately 20 years ago.

**Protestants:** None.

**Board Action:**

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Bolzle, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **APPROVE** a **Variance** of the required setback (front yard) as measured from the centerline of East 31st Street South from 85' to 58'; and **APPROVE** a **Variance** of the required setback (yard) as measured from the centerline of Victor Avenue to permit the original existing dwelling; and **DENY** a **Variance** of the required setback to permit a carport - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS.** Use Unit 6; finding that the existing carport extends into the right-of-way on Victor Avenue, and approval of the variance request would cause substantial detriment to the residential neighborhood, and violate the spirit, purposes and intent of the Code; on the following described property:

Lot 1, Block 1, Bren-Rose Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15776**

**Action Requested:**

Special Exception to permit a tent to be used for a church festival from July 20 through July 26 - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 4200 South Atlanta Place.

**Presentation:**

The applicant, **St. John's Episcopal Church**, was represented by **George Van Allen**, 6652 South Jamestown Place, Tulsa, Oklahoma, who submitted a plot plan (Exhibit D-1) and requested permission to erect a tent on the subject property. Letters of support (Exhibit D-2) were submitted.

**Martha Sheffield**, 4329 South Trenton, Tulsa, Oklahoma, stated that she is the Education Director for the church, and the event will consist of a picnic, presentation and songs. She explained that the church building is under construction and classroom space is limited; therefore, they are proposing to erect a tent to provide a teaching area.

Case No. 15776 (continued)

Comments and Questions:

Ms. Bradley Inquired as to the days and hours of operation for the festival, and Ms. Sheffield replied that the activities will be held from 6:00 p.m. to 8:30 p.m., July 21, 1991 through July 24, 1991.

In response to Mr. Bolzle's inquiry as to the type of music played outside the building, Ms. Sheffield stated that they plan to have acoustical guitars and an electric keyboard, but no amplified music.

Ms. Bradley asked how many people customarily attend the activities, and Ms. Sheffield stated that there were 125 in attendance at the last festival.

Board Action:

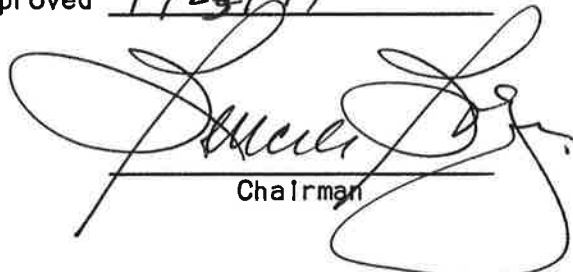
On **MOTION** of FULLER, the Board voted 3-0-0 (Bradley, Bolzle, Fuller, "aye"; no "nays"; no "abstentions"; Chappelle, White, "absent") to **APPROVE** a **Special Exception** to permit a tent to be used for a church festival from July 20 through July 26 - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; per plot plan submitted; subject to the festival operating from 6:00 p.m. to 8:30 p.m., July 20, 1991 to July 26, 1991; finding that the temporary use, as presented, will not be detrimental to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

W/2, NE/4, NW/4, NW/4, Section 29, T-19-N, R-13-E, Less and except the south 25' thereof, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 2:05 p.m.

Date Approved

7/23/91



Chairman