CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 592
Tuesday, August 13, 1991, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, August 12, 1991, at 9:03 a.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 **CHAPPELLE**, the Board voted 2-0-1 (Bolzle, Chappelle, "aye"; no "nays"; Fuller, "abstaining"; Doverspike, White, "absent") to **APPROVE** the Minutes of July 23, 1991.

UNFINISHED BUSINESS

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.

Presentation:

The applicant, **Charles Herrington**, 522 South 193rd East Avenue, Tulsa, Oklahoma, was represented by **Kenneth Todd**, 2727 East 21st Street, Tulsa, Oklahoma, who explained that the proposed home occupation will be located on a 2 1/2-acre tract containing a small dwelling and space for parking dump trucks. He stated that his client has one family member that assists him in the business, which consists of driving the trucks and making repairs. Mr. Todd informed that the parking area and a small private office are behind a privacy fence and are not visible from the street. Photographs (Exhibit A-1) were submitted. He pointed out that there is a salvage operation, a construction business and an auction company located in the area.

Case No. 15745 (continued)

Mr. Todd requested that Mr. Herrington be allowed to continue to park his trucks on a gravel surface behind the fence. He stated that the inoperable automobiles which have accumulated on the lot will be removed; however, the old dump trucks will be kept for repair parts.

Comments and Questions:

Mr. Chappelle asked Mr. Todd if his client will have employees, and he replied that Mr. Herrington and his son operate the business.

Mr. Bolzle asked if all repair work is completed behind the fence, and Mr. Todd answered in the affirmative.

In response to Mr. Fuller, Mr. Todd stated that two operable dump trucks will be stored on the property, and two inoperable trucks will be retained for parts.

Protestants:

Dolores Green, 524 South 193rd East Avenue, Tulsa, Oklahoma, stated that she lives next door to the property in question, and is not opposed to the dump trucks being parked on the lot, but does object to the salvage cars. She informed that Mr. Herrington had promised to move the cars two months ago, and no improvement has been made since that time. Ms. Green stated that the applicant repairs his trucks in the front yard, and that the partial privacy fence, which was installed approximately three weeks ago, does not adequately screen the business.

Mr. Fuller inquired as to the number of inoperable vehicles on the lot, and Ms. Green stated that there are approximately 30 junk cars stored on the property. She further noted that the applicant must have another employee, since his son does not appear to be old enough to drive a dump truck.

In response to Mr. Fuller, Mr. Gardner advised that the salvage yard to the north of the subject property was in operation prior to the current zoning requirements, and is nonconforming.

Mary Ann Walker, 526 South 193rd East Avenue, Tulsa, Oklahoma, stated that she is not opposed to the dump trucks, but requested that the applicant be required to move the salvage vehicles.

Interested Parties:

Joyce Colman, 444 South 193rd Street, Tulsa, Oklahoma, stated that she lives next door to the property in question, and is not opposed to the application.

Applicant's Rebuttal:

Mr. Todd stated that he is not sure why the junk cars have not been removed, but they will be moved if the application is approved. He explained that the work performed in front of the residence was a one-time occurrence that was a mistake and will not be repeated. Mr. Todd stated that the 8' fence is adequate to screen the dump trucks.

Case No. 15745 (continued)

Additional Comments:

Mr. Fuller stated that the application could be approved, per Home Occupation Guidelines, and subject to removal of the salvage cars, with no repairs being made in front of the dwelling.

Candy Parnell, Code Enforcement, informed that Mr. Herrington was issued the first notice on January 29, 1991, and there has not been a significant improvement in the appearance of the property since that time.

Mr. Bolzle asked if the complaint was specifically in regard to the salvage cars, and Ms. Parnell answered in the affirmative. She stated that the subject property was inspected again on June 28, 1991, and at that time extensive motor repairs were in progress (Exhibit A-1). Ms. Parnell stated that these repairs were being conducted in front of the dwelling, and a citation was issued.

Mr. Chappelle pointed out that one of the requirements of the Home Occupation is that it is not obvious a business is being operated on the site, and it would be impossible to conceal this type of operation.

Mr. Gardner advised that the Home Occupation Guidelines state that the business must be conducted within the principal building or a customary accessory building, and this business is not being conducted inside a building.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **DENY** a **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; to **DENY** a **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; and to **DENY** a **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; finding that the proposed home occupation does not comply with the Home Occupation Guidelines; on the following described property:

The north 99' of the south 198' of the E/2, S/2, N/2, NE/4, SE/4, Section 1, T-19-N, R-14-E, Tulsa County, Oklahoma.

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.

Case No. 15729 (continued)

Presentation:

The applicant, **Rader Institute,** 744 West 9th Street, Tulsa, Oklahoma, was represented by **Larry Blankenship,** Oklahoma City, who submitted a copy of the Board of Adjustment presentation (Exhibit B-2) and a packet (Exhibit B-3) explaining the proposed activities of the medical center. He submitted photographs (Exhibit B-4) of portions of the building that have deteriorated and need repairs to restore it to its original beauty. Mr. Blankenship informed that, in a recent survey of the neighborhood, it was found that only one resident of the area was opposed to the use. A letter (Exhibit B-5) explaining the use was submitted.

In response to Mr. Bolzle, **Veronica Jeffus** explained that the Radar Institute is a national health care corporation, which specializes in the treatment of eating disorders, and the Tulsa location has been in existence for five years. She stated that the present treatment center, currently located in the Tulsa Regional Medical Center, will be moved to the McBirney mansion. Ms. Jeffus informed that all patients are ambulatory, and have been walking from the hospital to River Parks every day since the program began. She stated that there have been no neighborhood complaints concerning the patients. Ms. Jeffus informed that the program will consist of a maximum of 20 women between the ages of 18 and 40, and from 12 to 14 staff members will work in three shifts. A brochure (Exhibit G-1) was submitted.

Mr. Bolzle asked if the patients will have automobiles, and Ms. Jeffus replied that this is discouraged.

In response to Mr. Bolzle, Ms. Jeffus stated that the typical length of stay is approximately 28 days, with visitation permitted on Sunday between 1:00 p.m. and 3:00 p.m.

Mr. Chappelle asked if out-patient services will be provided, and Ms. Jeffus replied that this service is provided at another location.

Mr. Fuller inquired as to exterior changes to the building, and Ms. Jeffus stated that there will be no changes except for minor repairs and improvements.

Mr. Gardner asked if additional parking spaces will be required for the proposed use, and Ms. Jeffus stated that the existing 16 spaces will provide ample parking.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **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;** subject to the treatment being limited to anorexia, bulimia, compulsive overeating and depression; subject to the number of

Case No. 15729 (continued)

patients being limited to 20 ambulatory individuals (primarily women) who are not suicidal and do not pose a threat to others; subject to no exterior alterations of the mansion's exterior, landscaping or historic open space; subject to no changes in the parking areas or ingress and egress; and subject to visiting hours being limited to Sunday only; finding the use, as presented, to be compatible with the surrounding area and in harmony with the spirit and intent of the Code; on the following described property:

Lots 2 - 20, except the north 20' of Lot 20, Block 12, a resubdivision of Blocks 4, 5 and 12 of Childers Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15779

Action Requested:

Appeal from the decision of the Code Enforcement officer that the existing use is a sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 14, located 1 North Lewis.

Presentation:

The applicant, **Scott Troy,** 707 South Houston, Suite 407, Tulsa, Oklahoma, was represented by **Richard Bright,** 1501 Kansas City Place, 1200 Main Street, Kansas City, Missouri. Mr. Bright explained that the Code Enforcement officer made a determination at one given time that the Whittier Book Store was a sexually-oriented business, but did not make a return visit to confirm that the business was still operating in the same manner before issuing a zoning violation. He pointed out that the business was sexually-oriented when it began operation approximately 20 years ago, but since 1988, when the business was reviewed by the Board, there have been substantial changes in the merchandise for sale. Photographs (Exhibit C-1) and a layout (Exhibit C-3) of the bookstore were submitted. Mr. Bright stated that the store stocks a full line of magazines, lingerie, motorcycle gear, hard back books and novelty items. He further noted that the windows are not covered and the interior of the store is in full view of those passing by.

Comments and Questions:

Mr. Jackere asked if the windows were uncovered on June 5th when the citation was issued by the Code Enforcement officer, and Mr. Bright stated that the front window on the right side of the building has been open continuously, and the operator is proposing to uncover the west window.

In response to Mr. Fuller, Mr. Bright stated that there are no films sold in the store which show sexual contact or reveal sexual conduct.

Mr. Jackere asked if the merchandise arrangement has been changed since June 5th, and Mr. Bright stated that the photographs show the appearance of the store at that time.

Case No. 15779 (continued)

Mr. Gardner asked if there is an age limit for customers, and Mr. Bright replied that individuals of any age can enter the store, which was the case on June 5th.

Referring to the photographs submitted, Mr. Bright explained that the merchandise consists of a hardback book section, magazines (ARA stocked monthly), paperbacks, novelty items, underwear, body lotions, paints and newspapers.

Mr. Jackere asked Mr. Bright if he would agree that the material in the old Playboy and Hustler magazines displayed in the bookstore are sexually oriented according to the current Code, and he answered in the affirmative. Mr. Jackere stated that this is one of the issues being considered today, and Mr. Bright stated that he thinks that the definition of a sexually-oriented business is when there are activities which concern themselves with fondling or touching of the pubic region, buttocks or female breasts, or sexual acts. He pointed out that this type of activity is not found in the magazines. Mr. Jackere advised that the showing of specified anatomical areas is a Code violation. Mr. Bright informed that, if the Board determines that magazines such as Penthouse or Playboy contain sexually-oriented material, they must also make the determination that this type of merchandise constitutes a substantial part of the business, which is not true.

Candy Parnell, Code Enforcement, stated that during an inspection of the property on August 7, 1991, it appeared that the display of reading material in the store was being altered. She informed that one shelf was bare and boxes were on the floor. Ms. Parnell stated that index cards with a number, a physical description and sexual preference, were displayed on a bulletin board, with instructions to leave information for contacting these individuals with the person at the desk.

In summary, Jackere pointed out that the operation of the store could have changed subsequent to the issuance of the notice of violation on June 5, 1991; however, this appeal is specifically directed at the order which was issued by Ms. Parnell at the time of inspection. He pointed out that any changes since that time may give rise to another notice, but this application is to consider a violation which occurred on or before June 5, 1991. Mr. Jackere advised that any information concerning the status of the bookstore at this time is irrelevant, and the Board should only consider what type of merchandise was on sale when Ms. Parnell made her initial inspection.

Ms. Parnell stated that she issued a notice of violation after a police report stated that the bookstore was in violation of the Code. Photographs (Exhibit C-2) were submitted.

Scott Walton, Tulsa Police Department, stated that he visited the Whittier Bookstore on May 18, 1991, and found that approximately 75 percent of the merchandise for sale was sexually-oriented. He informed that sexually-oriented items were displayed in the novelty section. Mr. Walton stated that the arcade booths, which he had seen in the bookstore prior to May 18th, have been removed.

Case No. 15779 (continued)

Mr. Jackere asked Mr. Walton if he observed the magazine section, and he replied that most of the magazines for sale were hard-core, and much more explicit than Playboy or Penthouse. He stated that nonobjectionable reading material was scattered randomly throughout the magazine display, and the sexually-oriented material was much more expensive than the other magazines.

Mr. Bolzle asked Ms. Parnell when she made the photographs that were previously presented, and she stated that they were made when she visited the bookstore on August 9th.

Interested Parties:

Gary Watts, 1564 South Gillette, Tulsa, Oklahoma, councilor for District 4, stated that he has not visited the bookstore, but that it is located very near a school. He pointed out that groups of school children have been observed looking through the store windows.

Applicant's Rebuttal:

Mr. Bright stated that magazines sold in the store do not depict sexual contact.

Mr. Jackere asked Mr. Bright if, in his opinion, any one type of magazine sold in the store is sexually-oriented as defined by the Code, and he answered in the affirmative. In response to Mr. Jackere, Mr. Bright stated that the sexually oriented magazines constitute approximately 10 percent of the total inventory, with the magazines, novelty items and videos making up approximately 25 percent of the store revenue.

Additional Comments:

Mr. Bolzle stated that the investigating police officer has stated that he considered over 50 percent of the bookstore inventory to be sexually-oriented material on May 18, 1991.

Board Action:

On **MOTION** of **FULLER,** the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **DENY** the **appeal** and **UPHOLD** the **decision** of the Code Enforcement officer in determining that the existing use is a sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 14; finding that the establishment has a substantial amount of merchandise for sale which has an emphasis on depicting specified anatomical areas; and finding that the use is detrimental to the area and violates the spirit and intent of the Code: on the following described property:

Lot 13, Block 4, East Highland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15780

Action Requested:

Appeal from the decision of the Code Enforcement officer that the existing use is a sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 14, located 814 South Sheridan.

Presentation:

The applicant, **Scott Troy,** 707 South Houston, Suite 407, Tulsa, Oklahoma, was represented by **Richard Bright,** 1501 Kansas City Place, 1200 Main Street, Kansas City, Missouri. He stated that the store has been in operation approximately 17 years, and that he is not sure what type of material was offered for sale on June 5, 1991 when it was inspected by the Code Enforcement officer. Mr. Bright stated that there has been a substantial change in the inventory and the issue is whether or not the violation is continuing.

Protestants:

In response to Mr. Bolzle, Mr. Bright stated that there were substantial changes in the materials offered for sale after the business was cited in 1988, and additional changes since the more recent June 5, 1991 citation.

Mr. Bolzle advised that it is the opinion of Mr. Jackere that the Board's decision should be based upon the type of merchandise that was offered for sale at the time of the violation.

Mr. Bright suggested that the Board also determine if this is a continuing violation.

Mr. Jackere disagreed with Mr. Bright's suggestion.

Mr. Bolzle asked if a portion of the store was previously designated for adult materials, and Mr. Bright answered in the affirmative. He stated that the adult inventory has been changed substantially, and the store is now more like a gift or novelty store. A store layout (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Jackere pointed out that the Code Enforcement officer found that the store contained a substantial amount of sexually oriented material at the time of inspection, and the evidence presented concerning the change in inventory after that time is irrelevant. Mr. Jackere asked Mr. Bright if he is willing to concede that on June 5, 1991, and days immediately preceding that date, the store in question was in violation of the Zoning Code, and he answered in the affirmative.

Case No. 15780 (continued)

Mr. Jackere advised that counsel for the applicant has admitted that the business in question was sexually-oriented prior to and on June 5, 1991.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **DENY** the **appeal** and **UPHOLD** the **decision** of the Code Enforcement officer that the existing use is a sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 14; finding that the store contained a substantial amount of sexually oriented material at the time of inspection; and finding the use to be detrimental to the neighborhood and in violation of Zoning Code; on the following described property:

West 165' of the east 180' of Tract 59, Less the north 200' thereof, Glenhaven Addition to the City and County of Tulsa, Oklahoma and being located in a CS zoned district, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15793

Action Requested:

Appeal from the decision of the Code Enforcement Officer that the existing use is a sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 12, located Southeast corner of Tecumseh and Kingston.

Appeal from the decision of the Code Enforcement Officer that the existing use is within 500' of an R zoned district, church, public or private park and within 1000' of another sexually-oriented business - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 12.

Variance of the required 500' spacing between a sexually-oriented business and an R zoned district, church, private or public park, or within 1000' of another sexually-oriented business - **Section 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES** - Use Unit 12.

Comments and Questions:

Mr. Jones informed that Staff has received a letter (Exhibit E-1) from the applicant, Marcus Wright, requesting withdrawal of the application.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **WITHDRAW** Case No. 15793, as requested by the applicant.

Case No. 15794

Action Requested:

Variance of the required 10' side yard to 0' to permit an addition to an existing dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 447 South 53rd West Avenue.

Presentation:

The applicant, **Delbert Collins**, 6709 West Cameron, Tulsa, Oklahoma, stated that he is the owner of the subject property, and submitted a plot plan (Exhibit F-1) and photographs (Exhibit F-2) of the dwelling. Mr. Collins explained that the house was constructed very near the property line and the proposed addition will align with the existing wall.

Comments and Questions:

Ms. Hubbard clarified that the applicant has removed an old room that encroached into the required setback, and the new addition will align with the existing house.

In response to Mr. Bolzle's question concerning guttering, the applicant explained that he owns the property to the north and, since there is a shared driveway between the two residences, water runoff should not be a problem.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Variance** of the required 10' side yard to 0' to permit an addition to an existing dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; subject to the installation of guttering to prevent drainage to the abutting property; finding that the existing dwelling was constructed prior to the adoption of the current Zoning Code and the addition will align with the existing building wall; and finding that the granting 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:

South 52' of the west 145' of Lot 5, Block 2, Smith's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15795

Action Requested:

Special Exception to permit Use Unit 14 uses, shopping goods and services, in an IM zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 14, located SW/c Apache Street and Lewis Avenue.

Presentation:

The applicant, **Virginia Williams**, 3180 East 33rd Street, Tulsa, Oklahoma, was represented by **Ed Bullard**, 7760 East 87th Street, Tulsa, Oklahoma, who requested permission to continue operation of his business in an existing 3000 sq ft building at the above stated location.

Comments and Questions:

Mr. Bolzle inquired as to the type of business being operated on the property, and Mr. Bullard stated that merchandise for sale in one portion of the store consists of jewelry, souvenirs, toys and gift items. He informed that the remaining portion of the store is used for resale items, such as furniture and appliances. He pointed out that the building has not been used for industrial purposes.

In response to Mr. Bolzle, Mr. Bullard stated that the store will be open from 9:00 a.m. to 5:00 p.m. and that some merchandise is stored outside the building.

Candy Parnell, Code Enforcement, informed that she received a complaint about the trash and debris behind the building, and it was discovered during the investigation that the property was not zoned for the existing use.

Protestants:

Cleo Williams, stated that she is opposed to the condition of the property. She pointed out that the owner, Virginia Williams, has permitted the outside storage of materials on the tract, and the property has been an eyesore in the community. She stated that merchandise for sale is also left outside the building.

Mr. Bolzle pointed out that the application covers a large portion of property to the west of the business in question, and requested that the legal description be amended to include only the building on the southwest corner of Apache Street and Lewis Avenue.

Gertrude Jones, 2230 North Xanthus Place, Tulsa, Oklahoma, stated that the building has had several occupants during the years, and requested that the junk be removed from the property.

Mr. Bolzle asked Ms. Jones if she objects to the business described by the applicant, and she replied that she is not opposed to the business if all merchandise is kept inside the building.

Thelma Turner, 2445 North Yorktown, Tulsa, Oklahoma, stated that junk is stored around the building and asked that all trash be removed and all materials be stored inside the building.

Case No. 15795 (continued)

Mr. Fuller asked Ms. Turner if she objects to the resale shop being contained inside the building, and she replied that the business would not be a problem if there is no outside storage.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Special Exception** to permit Use Unit 14 uses, shopping goods and services, in an IM zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 14; subject to no outside storage of merchandise or materials; finding that numerous sales operations have been conducted at this location and Use Unit 14 uses will not be detrimental to the area if contained within the building; on the following described property:

East 125' of N/2, NE/4, NE/4, NE/4, less north 40' and less west 205', east 245', south 125' thereof, Section 30, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15796

Action Requested:

Special Exception to permit continued use of a private school in an AG zoned district - **Section 310. PERMITTED USES IN AGRICULTURE DISTRICTS** - Use Unit 5, located 6427 West Edison.

Presentation:

The applicant, **Scott Smith**, 1524 South College, Tulsa, Oklahoma, stated that the Board approved school use at the current location for three years. He informed that the church has not been able to construct the building during that period of time, and requested that the approval be extended. A letter of support (Exhibit S-1) was submitted by Bill McBee, District 11 cochairman.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Special Exception** to permit continued use of a private school in an AG zoned district - **Section 310. PERMITTED USES IN AGRICULTURE DISTRICTS** - Use Unit 5; for a period of three years **only**; finding that the use has been at the current location for three years and has proved to be compatible with the surrounding neighborhood; and finding that the granting of the special exception request will not have a detrimental effect on the area, or violate the spirit and intent of the Code; on the following described property:

Case No. 15796 (continued)

A tract of land in the SW/4 SE/4 Section 31, T-20-N, R-12-E, Osage County, Oklahoma, being more particularly described as follows: Beginning at the southwest corner of the SE/4, thence N 0°00'24" E for 164' to POB; thence N 0°00'24" E 210.08'; thence S 89°52'30" E for 361.7'; thence S 13°17'27" E for 215.85'; thence N 89°52'30" W for 411.29' to the POB and being located in an AG zoned district, City of Tulsa, Osage County, Oklahoma.

Case No. 15797

Action Requested:

Variance of the 45' setback from the centerline of 19th Street to 35' to permit an addition to an existing garage - Section 210.B.5. Permitted Yard Obstructions - Use Unit 6, located 1747 South Knoxville.

Presentation:

The applicant, **William Harris,** 1723 South Detroit, Tulsa, Oklahoma, submitted a plot plan (Exhibit G-1) and requested permission to add additional space to an existing one-car garage. He stated that the new construction will not cause the garage to extend closer to the street than the existing one.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Variance** of the 45' setback from the centerline of 19th Street to 35' to permit an addition to an existing garage **- Section 210.B.5. Permitted Yard Obstructions -** Use Unit 6, per plot plan submitted; finding that the proposed construction will not extend closer to the street than the existing building, and that adding enough garage space to accommodate two cars will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lot 10, Block 1, Wilson View Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15799

Action Requested:

Variance of the required 3' setback from a property line to permit a garage; and a variance of the maximum permitted coverage of a required rear yard from 20% to 30% **- Section 210.b.5. Permitted Yard Obstructions** - Use Unit 6.

Variance of the minimum required 5000 sq ft of livability space to 3009 sq ft **- Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2534 South Norfolk.

Case No. 15799 (continued)

Presentation:

The applicant, **Robert Alexander**, 2534 South Norfolk, Tulsa, Oklahoma, submitted a plot plan (Exhibit H-1) and photographs (Exhibit H-2) of the property in question. He explained that he is renovating an existing house and requested permission to replace the old garage and carport with a new two-car garage.

Comments and Questions:

Mr. Fuller asked the applicant if he is proposing to construct the garage on the boundary line, and he explained that, due to the irregular shape of the lot, the distance to the lot line varies from 4' to 21/2'. Mr. Alexander stated that the new structure will be built at the same location as the old one.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzie, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Variance** of the required 3' setback from a property line to permit a garage; and a variance of the maximum permitted coverage of a required rear yard from 20% to 30% - **Section 210.b.5. Permitted Yard Obstructions** - Use Unit 6: and to **APPROVE** a **Variance** of the minimum required 5000 sq ft of livability space to 3009 sq ft - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; finding that the garage will replace an old structure that will be removed from the lot; and finding that the granting of the requested variance will not be detrimental to the neighborhood; on the following described property:

Lot 8, Block 7, Sunset Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15800

Action Requested:

Variance to expand a nonconforming use (parking of various vehicles and equipment) - **Section 1407.A.B.C. Parking, Loading and Screening Nonconformities** - Use Units 6 and 25.

Variance of the required all-weather material to permit parking on a gravel lot - **Section 1303.D Design Standards for Off-Street Parking Areas** - Use Units 6 and 25, located 8160 South Elwood.

Presentation:

The applicant, **Mark Sharp**, 632 West Main, Jenks, Oklahoma, who submitted a plot plan (Exhibit J-1), stated that he is representing the owners of the property in question. He pointed out that they are not asking to expand their nonconforming use. He informed that Code Enforcement has notified his client that the business has expanded since the property was annexed into the City. Mr. Sharp stated that the expansion to the use occurred in 1986 when a building permit was issued for a 50' by 50' building, which constructed on the property at that time. He pointed out that the property owners built a home

Case No. 15800 (continued)

on the site in 1959 and have continued to live on the property and operate a family business. Thirteen letters of support (Exhibit J-2), which stated that the business was in existence in 1970, were submitted. Mr. Sharp explained that his client is a utility contractor (installs telephone cable) and all work is performed at another location; however, his equipment is parked on the subject property and some repairs are made in the building. He stated that the large equipment with metal cleats cannot be parked on a hard surface material. Mr. Sharp reiterated that a building permit was issued in 1986 for the existing building, and requested that his client be permitted to continue to operate his business that began in 1959 and expanded in 1986. A news article and zoning clearance permit (Exhibit J-5) were submitted.

Comments and Questions:

Mr. Bolzle asked if the equipment is stored in the building on the back portion of the property, and Mr. Sharp replied that the equipment is parked in front of the building.

Candy Parnell, Code Enforcement, advised that the complaint received at her office was from an abutting property owner who stated that there has been an expansion of a lawfully nonconforming use on the property. She stated that she could not determine from the aerial photographs if the business was in operation prior to 1970.

Mr. Bolzle asked if pipe, cable, etc. are stored on the property, and Mr. Sharp answered in the affirmative.

Mr. Jackere informed that the date for establishing a nonconforming use would be the date of annexation into the City, which was 1966.

Protestants:

Mr. Bolzle stated that a letter of protest (Exhibit J-3) was received from area residents, Gerald and Sheila Campbell.

Sam Young, 8164 South Elwood, Tulsa, Oklahoma, submitted a packet (Exhibit J-1) containing photographs of the equipment and gasoline tank truck stored on the property. He pointed out that there are numerous residences in the area and the long-range plan for the area is residential, not industrial. Mr. Young stated that the storage of equipment at this location creates an eyesore, lowers property values and is hazardous to children in the area. An appraisal report was included in the packet (Exhibit J-1) submitted by Mr. Young.

Comments and Questions:

Mr. Fuller inquired as to the number of homes in the surrounding area, and Mr. Young replied that approximately 30 residences are located in the area. He added that it is approximately 100 yards from his front door to the gasoline tanker truck that is stored on the subject property.

Mr. Jackere asked Mr. Young if there have been changes in the use since he purchased his home approximately two and one-half years ago, and he replied that trees have been removed and the equipment storage area enlarged.

Case No. 15800 (continued)

Mr. Bolzle stated that the case could be continued to allow the applicant to prove nonconformity and that the intensity of the use has not increased.

Interested Parties:

Dennis Vanskoy, Route 1, Porter, Oklahoma, stated that he has the first mortgage on the three parcels of property abutting the subject property, and at the time he purchased his property there were only two pieces of equipment stored at this location.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **CONTINUE** Case No. 15800 to August 27, 1991 to allow the applicant to prove nonconformity of the use and if it has expanded since 1966.

Case No. 15801

Action Requested:

Special Exception to allow a mobile home in an AG zoned district - **Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9.

Variance of the required 30' of frontage on a public or dedicated street to 0' - **Section 206. STREET FRONTAGE REQUIRED** - Use Unit 9, located 14344 East 56th Street North.

Presentation:

The applicant, **Rick Herron,** 8344 North 117th East Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit K-1) and requested permission to install a mobile home on his property for one year. He stated that he is constructing a permanent dwelling on the property.

Comments and Questions:

Mr. Fuller asked if the mobile home will be removed at the end of the one-year period, and the applicant answered in the affirmative.

Mr. Bolzle asked Mr. Herron if he owns the small strip of land giving access to the property, and he replied that he owns a 10' by 20' portion of land on the street. He stated that he is trying to acquire the the 10 acres fronting the street, and abutting his property.

In response to Mr. Bolzle, the applicant stated that he has obtained an access easement from the street to his tract.

Mr. Gardner inquired as to the distance from the location of the mobile home to the nearest residence, and Mr. Herron stated that he is approximately 680' from another mobile home, and one-quarter mile from the nearest stick built home.

Case No. 15801 (continued)

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Special Exception** to allow a mobile home in an AG zoned district for one year **only - Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9; and to **APPROVE** a **Variance** of the required 30' of frontage on a public or dedicated street to 0' - **Section 206. STREET FRONTAGE REQUIRED** - Use Unit 9; per plot plan submitted; and subject to the execution of a mutual access easement; finding that the temporary use will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

SW/4, NE/4, NE/4, Section 9, T-20-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15802

Action Requested:

Variance of the required 75' lot width to 50', and a variance of the required 9000 sq ft lot area to 6500 sq ft, and of the required 10,875 sq ft land area to 7750 sq ft to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2101 East 22nd Place.

Presentation:

The applicant, **Dona Broyles**, 2101 East 22nd Place, Tulsa, Oklahoma, stated that her property consists of 2 1/2 lots (one 75' lot, one 50' lot and the west 25' of a third lot), or 150' of street frontage. She explained that the existing house was constructed in 1936 on the west lot, with a slight encroachment into the middle lot, resulting in a 50' vacant lot. Ms. Broyles stated that the zoning has changed and the required lot width is now 75'. She explained that she is proposing to sell the property to a builder, who will renovate the existing dwelling and construct a new dwelling on the vacant lot. Ms. Broyles stated that numerous lots in the area are 50' in width and some are less. Photographs (Exhibit P-1) were submitted.

Protestants:

Georgeanna White, 2140 East 22nd Place, Tulsa, Oklahoma, stated that there are no 50' lots on 22nd Place, and she is opposed to the application.

Anthony Kaprelos, 4142 South Trenton, Tulsa, Oklahoma, stated that he is representing his sister-in-law, who lives across the street from the subject property and is opposed to the application. Mr. Kaprelos pointed out that the applicant has failed to present a hardship for the variance request.

Case No. 15802 (continued)

Jerry White, 2205 East 22nd Place, Tulsa, Oklahoma, stated that he is concerned with splitting lots in established developments, and feels this destroys the balance of the neighborhood.

Jessie Henley, 2115 East 22nd Place, Tulsa, Oklahoma, stated that she lives to the east of Ms. Broyles property, and the proposed construction will decrease the amount of light and air circulation, and create a traffic problem at this location.

Susan White, 2205 East 22nd Place, Tulsa, Oklahoma, stated that most of the lots in the immediate area contain 10,000 sq ft of land area, and that a portion of the existing dwelling will have to be removed to complete the proposed project.

Board Action:

On **MOTION** of **FULLER,** the Board voted 3-0-0 (Bolzie, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **DENY** a **Variance** of the required 75' lot width to 50', and a variance of the required 9000 sq ft lot area to 6500 sq ft, and of the required 10,875 sq ft land area to 7750 sq ft to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the applicant failed to demonstrate a hardship for the variances requested; and finding that the requested lot size is not consistent with those in the immediate area; on the following described property:

Lots 12, 13, and the west 1/2 of Lot 14, Block 4, Brentwood Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15803

Action Requested:

Variance of the required 60' setback from the centerline of North Yale Avenue to 50' to permit a business sign - **Section 1221.C/6. General Use Conditions for Business Signs** - Use Unit 13, located 903 North Yale Avenue.

Presentation:

The applicant, **Oklahoma Neon,** was represented by **Terry Howard,** 1423 South Independence, Tulsa, Oklahoma, who explained that the existing sign will be moved down the lot to the north, and installed at the same setback. A sign plan (Exhibit L-2) was submitted. He informed that the strip center will be removed and a new Git-N-Go will be constructed on the lot. A plot plan (Exhibit L-1) was submitted.

Comments and Questions:

Mr. Gardner informed that the Major Street and Highway Plan calls for 60' of right-of-way in the area, but only 50' has been dedicated. He pointed out that most of the off-street parking in the area has been constructed to the property line, and if the signs are installed at the required setback they are sometimes in the middle of the parking lot rather than on the fringe of the property.

Case No. 15803 (continued)

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Variance** of the required 60' setback from the centerline of North Yale Avenue to 50' to permit a business sign - **Section 1221.C/6. General Use Conditions for Business Signs** - Use Unit 13; per plan submitted; subject to the execution of a removal contract; finding that the parking lots in the area have been constructed on the lot line and the installation of the sign at the required setback would move it to the interior of the parking lot; on the following described property:

A tract of land located in the W 130.5' of Lot 1, Block 1, Yale Manor Addition to the City and County of Tulsa, Oklahoma according to the official plat thereof, more particularly described as follows: Beginning at the SW/c of said Lot 1, Block 1; thence northerly along the west line of said Lot 1 a distance of 22'; thence easterly on a line parallel to the south line of said Lot 1 a distance of 114.2'; thence northerly on a line parallel to the west line of said Lot 1 a distance of 156.9'; thence westerly along a line parallel to the north line of said Lot 1 a distance of 113.5'; thence northerly along the west line of said Lot 1 to the NW/c of said Lot 1; thence easterly along the north line of Lot 1 a distance of 130.5'; thence southerly on a line parallel to the west line of said Lot 1 a distance of 200' to a point on the S line of said Lot 1; thence westerly along the south line of said Lot 1 a distance of 130.5' to the POB; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15804

Action Requested:

Variance to permit a second story in a detached accessory building - **Section 210.B.5 Permitted Yard Obstructions** - Use Unit 6.

Variance to exceed the maximum permitted 750 sq ft for a detached accessory building to 1120.5 sq ft - **Section 402.B.1.d. Accessory Use Conditions,** located 29th Street and Yorktown Avenue.

Comments and Questions:

Mr. Bolzle advised that one Board member will need to abstain from hearing Case No. 15804 and, due to lack of three votes, this application will be continued to August 27, 1991.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **CONTINUE** Case No. 15804 to August 27, 1991.

Case No. 15805

Action Requested:

Variance of the required 25' rear yard to 10' to permit an addition to an existing building - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 1631 East 30th Place.

Presentation:

The applicant, **Steve Olsen,** 324 East 3rd Street, Tulsa, Oklahoma, was represented by **Darwin Smith, Jr.,** 2677 East 38th Street, Tulsa, Oklahoma. He submitted a plat of survey (Exhibit M-1), and requested permission to construct a carport in the rear yard of an existing house. He explained that the carport will not extend as close to the rear property line as the existing structure.

Comments and Questions:

Mr. Bolzie asked what type of structure is existing west of the proposed carport, and Mr. Smith stated that there is a covered walkway to the west.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE,** the Board voted 3-0-0 (Bolzie, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Variance** of the required 25' rear yard to 10' to permit an addition to an existing building - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plat of survey; finding that the carport will not extend closer to the rear property line than the existing structure to the west; finding that the proposed construction will not be detrimental to the neighborhood; on the following described property:

Lots 3 and 4, Block 5, Avalon Place, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15806

Action Requested:

Special Exception for master plan approval for church use in an AG zoned district - **Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 5, located 5415 East 101st Street South.

Presentation:

The applicant, **D. Leon Ragsdale,** 1615 North 24th West Avenue, Tulsa, Oklahoma, submitted a master plan (Exhibit N-1) for the Redeemer Covenant Church. He informed that the church has an existing auditorium and educational space, and requested that the Board approve the master plan which depicts future development on the site.

Case No. 15806 (continued)

Comments and Questions:

Mr. Bolzle asked if all proposed parking is shown on the plan, and the applicant stated that additional parking will not be installed.

In response to Mr. Jackere, the applicant stated that there will not be a child care operation on the property.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; Doverspike, White "absent") to **APPROVE** a **Special Exception** for master plan approval for church use in an AG zoned district - **Section 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 5; per master plan submitted; finding the use to be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

E/2, SW/4, SE/4, SW/4, Section 22, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:30 p.m.

Date Approved August 27, 1991

Chairman