

**CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 604
Tuesday, February 25, 1992, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center**

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle, Chairman Chappelle Doverspike Fuller White		Gardner Jones Moore	Jackere, Legal Department Hubbard, Protective, Insp.

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, February 21, 1992, at 1:25 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 **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** the Minutes of February 11, 1992.

UNFINISHED BUSINESS

Case No. 15923

Action Requested:

Variance of the required setback from the centerline of 33rd West Avenue from 85' to 46' to permit an existing carport - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 4712 South 33rd West Avenue.

Presentation:

The applicant, **Paul Yoeman**, 4712 South 33rd West Avenue, Tulsa, Oklahoma, was represented by his son, **John Yoeman**, who submitted photographs (Exhibit A-1) of the surrounding neighborhood and a letter (Exhibit A-2) from his father's physician. He explained that the carport was constructed by Carports of Tulsa in 1991, and his father was under the impression that all permits had been obtained at that time. He informed that the translucent panels were added to the north side of the carport later in the same year, and the neighbor on the abutting lot complained that the panels obstructed her view. Mr. Yoeman pointed out that there are three other carports in the area, one of which belongs to the neighbor to the north that voiced the complaint. Mr. Yoeman explained that the carport cannot be located in the back yard,

Case No. 15923 (continued)

because the lot is narrow and there is no vehicular access to the rear of the property. He stated that his father is in poor health and constructed the carport to provide a shelter during inclement weather. He added that his father is not opposed to removing the north panels, and asked the Board to approve the application for at least two or three years.

Comments and Questions:

Mr. Bolzle advised Mr. Yoeman that the Board does not have the authority to grant the requested relief because of a medical hardship.

Mr. Gardner pointed out that the lot is only 50' wide, with 5' side yard setbacks and has no access to the back yard, which would prevent the construction of a carport to the rear of the dwelling.

In response to Mr. Bolzle, Mr. Yoeman stated that the existing garage was constructed many years ago and is not large enough for his father's car.

In reply to Mr. Fuller's question concerning a time limitation, Mr. Doverspike stated that there are other carports in the area, and that he could support the application without a time limit.

Protestants:

None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of 33rd West Avenue from 85' to 46' to permit an existing carport - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; subject to the north panels being removed and the sides and the front of the carport remaining open; finding that there is a carport next door to the subject property, and finding that the narrowness of the lot and the 5' side yard setbacks prevent construction of the carport on the side or rear portion of the lot; on the following described property:

Beginning 30' west and 519.55' north of the SE/c of the NE/4, SE/4, thence west 285.19' to Union right-of-way thence northeasterly 60.02', east 252.03' to a point 30' west of the east line of the NE/4, SE/4, thence south 50' to point of beginning, Section 28, T-19-N, R-12-E; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15938

Action Requested:

Special Exception to permit retail Tire Sales and Installation (Use Unit 17) - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located southeast corner East 41st Street and Broken Arrow Expressway - Use Unit 17.

Presentation:

The applicant, **Joe Covey**, 828 Southeast 29th Street, Oklahoma City, Oklahoma, was not present.

Comments and Questions:

Mr. Jones advised that the applicant has recently submitted a plot plan for the project, and it was determined that additional relief is required. He stated that Mr. Covey has requested that Case No. 15938 be continued to March 10, 1992 to allow sufficient time for advertising.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, Fuller, , "aye"; no "nays"; no "abstentions"; White, "absent") to **CONTINUE** Case No. 15938 to March 10, 1992, as requested by the applicant.

Case No. 15939

Action Requested:

Special Exception to modify the screening requirements to permit an existing fence - **Section 212.C.2. Modification of the Screening Wall or Fence Requirements** - Use Unit 17.

Variance of the all-weather surface parking requirement - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, Use Unit 17, located 5108 North Peoria Avenue.

Presentation:

The applicant, **Andrew Briscoe**, 4148 East Xyler, Tulsa, Oklahoma, was not present.

Comments and Questions:

Ms. Hubbard submitted a copy of the notice of violation and photographs (Exhibit B-1) of the business, which were taken by Candy Parnell, Code Enforcement. She informed that Ms. Parnell found that many vehicles were not operable and were not tagged.

Mr. Jones informed that the applicant has not contacted Staff since his request for a continuance at the February 11th meeting.

Case No. 15939 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Special Exception** to modify the screening requirements to permit an existing fence - **Section 212.C.2. Modification of the Screening Wall or Fence Requirements** - Use Unit 17; and to **DENY** a **Variance** of the all-weather surface parking requirement - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, Use Unit 17; finding that the case was scheduled for hearing on February 11 and rescheduled, by request, for February 25, at which time the applicant failed to appear.

East 150' of north 150' of south 225', SE/4, SE/4, NE/4, Section 12, T-20-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15958

Action Requested:

Minor variance of the required 10' side yard to 9'9" to permit an existing dwelling and an addition to the dwelling - **Section 403. BULK AND AREA REQUIREMENTS FOR THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2430 East 25th Street South.

Presentation:

The applicant, **William Ford**, 2430 East 25th Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit C-1), and explained that the existing dwelling complied with the required setback at the time of constructed, but is 3" over the current requirement. He added that the proposed addition will align with the existing building wall and will not encroach further into the setback.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Minor Variance** of the required 10' side yard to 9'9" to permit an existing dwelling and an addition to the dwelling - **Section 403. BULK AND AREA REQUIREMENTS FOR THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; finding that the proposed construction will

Case No. 15958 (continued)

align with the building wall of the existing dwelling, and approval of the minor variance request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

Lot 5, Block 1, Kenlawn Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15937

Action Requested:

Special exception to permit a home occupation (art lessons) in a residential district - **Section 402.A. ACCESSORY USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11, located 8218 South Florence Place.

Presentation:

The applicant, **Ruth Vesanen**, 8218 South Florence Place, Tulsa, Oklahoma, submitted a packet (Exhibit D-1) containing a petition of support, a letter of support and an explanation of the use. She requested permission to continue teaching art lessons in her home at the above stated location. Ms. Vesanen informed that she has been teaching art in her home for approximately 3½ years, and recently became aware that a special exception is required if several students are taught at the same time. She stated that there have been no complaints from the neighbors. The applicant explained that six classes are meeting two times each month, with no more than 11 students in each class. Ms. Vesanen pointed out that the classes do not meet during the peak traffic hours, therefore, her business does not create a traffic problem in the neighborhood. She stated that approximately two-thirds of the students car pool.

Comments and Questions:

Mr. Doverspike inquired as to the age of the students, and the applicant stated that the children are from five to 14 years of age.

Ms. White asked the applicant if there is an age limit for students attending the art classes, and she replied that she has not taught adults, but could in the future.

Protestants:

Jack Pirtle, 8207 South Florence, Tulsa, Oklahoma, stated that he lives behind the applicant and question whether or not the business will be enlarged in the future, and if the approval will be passed to subsequent property owners.

Case No. 15937 (continued)

Mr. Bolzle explained that future owners of the property would be permitted to have this specific use if approved, subject to any conditions of approval.

Ms Vesanen stated that the classes will not be enlarged, because the room used for classes is not large enough to teach more than 11 students.

In response to Mr. Doverspike, the applicant stated that she does not employ other teachers, and does not have a sign.

Mr. Bolzle asked the applicant if she advertises the art classes, and she replied that the only advertising is by word of mouth.

Ms. White remarked that this home occupation has the potential to grow, and the business, as is, generates a lot of traffic in the neighborhood. She further noted that it would be difficult to monitor the number of students visiting the home.

Mr. Doverspike stated that the business has been operating for several years without neighborhood complaints, and appears to be compatible with the area.

After discussion, it was the consensus of the Board that the business would not be detrimental to the neighborhood if the classes were limited to students under 16 years of age that did not drive to the home.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Special Exception to permit the teaching of art classes as a home occupation in a residential district - **Section 402.A. ACCESSORY USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11; subject to a maximum of 12 classes per month and 11 students per class, under the age of 16 (non-driving students); subject to classes during the school term being conducted from 1:00 p.m. to 3:00 p.m., Monday through Friday, and three or four classes during the summer, either 10:00 a.m to noon, or 1:00 p.m. to 3:00 p.m.; and subject to no business advertising, and strict adherence to the Home Occupation Guidelines; finding that the use has been in operation for approximately 3 years and has proved to be compatible with the neighborhood; on the following described property:

Lot 12, Block 4, Walnut Creek III, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15941

Action Requested:

Special Exception to operate a lounge in an IL zoned district - **Section 901. - PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 12, located 3018 East Pine Street.

Presentation:

The applicant, **Sixto DeLeon**, 4338 East 4th Place, Tulsa, Oklahoma, was represented by **Mark Reents**, 5416 South Yale, Suite 600, Tulsa, Oklahoma, who informed that his client is proposing to operate a lounge in a building formerly occupied by Braum's.

Comments and Questions:

Mr. Chappelle pointed out that the case map does not indicate that the business will be located in the Braum's building.

There was Board discussion concerning the submitted legal description, and Mr. Jackere stated that the legal appears to be correct.

Mr. Jones pointed out that the wrong address for the business could have been submitted.

Mr. Gardner advised that, according to the property designation on the map, the residential property owners to the west of the proposed location of the lounge were not notified of this meeting.

It was the consensus of the Board that the application should be continued to permit correction of the case map and notification of all property owners within 300' of the proposed business.

Protestants:

None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 15941 to March 10, 1992 to allow sufficient time to notify surrounding property owners.

Case No. 15942

Action Requested:

Variance of the required number of parking spaces -
Section 1212.D. Off-Street Parking and Loading
Requirements - Use Unit 12, located 5 South Lewis.

Comments and Questions:

In response to Mr. Bolzle, Mr. Gardner stated that the legal description submitted by the applicant includes only one lot, however, the plot plan indicates that more than one lot is involved in the application.

Presentation:

The applicant, **Charles Hensley**, 2402 East Admiral, Tulsa, Oklahoma, submitted a plot plan (Exhibit E-1), and informed that he is proposing to operate a small diner on the subject property. Mr. Hensley stated that he will lease additional space to meet the parking requirements.

Additional Comments:

Mr. Gardner inquired as to the size of the property, and the applicant stated that the lot is 177' by 50'.

In response to Mr. Bolzle, Ms. Hubbard stated that the plans were not clear enough to determine the number of parking spaces needed for the diner, but it was evident that a variance of parking would be required.

Mr. Bolzle state that only five spaces can be provided on the subject property.

Mr. Gardner remarked that the applicant can provide only five parking spaces for the diner, and approximately 20 spaces are required.

Protestants:

Fran Pace, 1326 South Florence Avenue, Tulsa, Oklahoma, stated that she is chairperson for the District 4 Planning Team, and urged the Board to deny the request. She pointed out that there is a conflict between the applicant's plan and the redevelopment plan for the area. Ms. Pace stated that there is not sufficient parking for the use, and approval of the application would be detrimental to the future development of the area.

Additional Comments:

Ms. White pointed out that a great deal of long range planning has been devoted to the area, and the magnitude of the variance (300 - 400%) would be detrimental to the neighborhood.

Case No. 15942 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye" no "nays"; no "abstentions"; none "absent") to **DENY** a Variance of the required number of parking spaces - **Section 1212.D. Off-Street Parking and Loading Requirements** - Use Unit 12; finding that a hardship was not demonstrated that would warrant the approval of the variance request; finding that the applicant could only provide five on-site parking spaces, and the major portion of parking would depend on the applicant's ability to acquire a lease; and finding that approval of a 400% parking variance would be detrimental to the neighborhood, and would not be in harmony with the long-range plan for the area; on the following described property:

Lot 12, Block 5, East Highland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15943

Action Requested:

Variance of the required 10' setback from a freeway right-of-way to 6' to permit an existing sign - **Section 1221.C.1 General Use Conditions for Business Signs** - Use Unit 16, located 5108 South Peoria.

Presentation:

The applicant, **Oklahoma Neon**, was represented by **Terry Howard**, 1423 South 128th East Avenue, Tulsa, Oklahoma, who submitted a plot plan (Exhibit F-1) and photographs (Exhibit F-2). He stated that the sign was installed and it was later determined that it had been placed too close to the State right-of-way, which was not pinned. Mr. Howard informed that the sign inspector was not able to find the right-of-way marker and had the property surveyed. He stated that the surveyor found the sign to be 6' from the right-of-way instead of the required 10'. Mr. Howard stated that the State Highway Department only requires that structures be kept off State property, and they will supply a letter stating that they are not opposed to the sign location. He added that the sign does not cause a visibility problem.

Comments and Questions:

In response to Mr. Bolzle, Mr. Howard stated that the curb is usually the State right-of-way line, and in this instance they measured back 16', instead of 10', which in most cases would have been more than the required setback.

Case No. 15943 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 10' setback from a freeway right-of-way to 6' to permit an existing sign - **Section 1221.C.1 General Use Conditions for Business Signs** - Use Unit 16; per plot plan submitted; finding that the sign pole would be located in the parking lot if installed at the required 10' setback; and finding that the structure does not obstruct the view of motorists approaching the intersection; one the following described property.

Lot 3, Block 1, Jen-Ash Park, an addition in the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and a portion of the NE/4, NE/4, Section 36, T-19-N, R-12-E, Tulsa County, Oklahoma, being more particularly described as: Beginning at a point 207' south of the north line of Section 36, and 50' west of the east line of Section 36; thence south parallel with the east line of said Section 36, a distance of 125' to a point; thence west parallel to the north line of said Section 36, a distance of 125' to a point; thence north parallel to the east line of said Section 36 to a point on a straight line described as follows: Beginning at a point 207' south of the north line of said Section 36 and 50' west of the east line of said Section 36; thence in a northwesterly direction a distance of 359.9' to a point which is 123' south of the north line of said Section 36; thence in a southeasterly direction along said described straight line to Point of Beginning, Tulsa County, Oklahoma, said tract also being more particularly described by metes and bounds as follows: A tract of land in the NE/4, NE/4, NE/4, Section 36, T-19-N, R-12-E, Tulsa County, Oklahoma, described as follows, to-wit: Commencing at the NE/c, Section 36; thence due south along the east line of Section 36 a distance of 207.00' to a point; thence S 89°57'03" W and parallel with the north line of Section 36 a distance of 50.00' to the Point of Beginning; thence due south and parallel with the east line of Section 36 a distance of 125.00' to a point; thence S 89°57'03" W a distance of 125.00' to a point; thence due north 155.00' to a point on the southerly right-of-way line of I-44 Highway, said point being 177.00' south of the north line of said

Case No. 15943 (continued)

Section 36: thence S 76°33'03" E along the southerly right-of-way line of I-44 Highway a distance of 128.52' to the Point of Beginning, and containing 17,500.00 sq ft, more or less. Both tracts comprise 41,706.32 sq ft, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15944

Action Requested:

Variance of the screening requirement between office use and property zoned RM-2 - **Section 1212.C. - Use Conditions** - Use Unit 11, located SE/c East 15th Street and South 101st East Avenue.

Presentation:

The applicant, **Dominion Leasing**, PO Box 727, Oklahoma City, Oklahoma, was represented by **Gordon Beard** of the same address. Mr. Beard submitted a plot plan (Exhibit G-1) and stated that a five-story office building is proposed for the property, which will be the future location of the Corps of Engineers. Mr. Beard requested that the solid screening fence requirement be waived and that a living fence, composed of landscaping and trees, be installed along the abutting RM-2 property line to the north. He submitted a letter (Exhibit G-2) of support from the north property owner.

Comments and Questions:

Mr. Gardner asked Mr. Beard if the abutting RM-2 property is owned by the Corps, and he replied that the Corps does not own any of the property. Mr. Gardner asked what will be located to the north of the building, and Mr. Beard stated that an automobile parking lot is to the north, and equipment will not be stored on the lot.

In response to Mr. Bolzle, Mr. Gardner advised that, if inclined to approve the application, a landscape could also be required for Board review and approval.

Protestants:

Chuck Iliff, 1298 South 103rd East Avenue, Tulsa, Oklahoma, stated that he lives in the area and voiced a concern with numerous traffic hazards that could be created as a result of the proposed use.

Bob Welch, 1373 South 101 East Avenue, Tulsa, Oklahoma, requested that any fencing or landscaping be kept away from the road to assure maximum visibility.

The protestants requested that a landscape plan be made available for the neighborhood to review.

Case No. 15944 (continued)

Additional Comments:

Mr. Gardner pointed out that the fencing would not be permitted to extend into the City right-of-way.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the screening requirement between office use and property zoned RM-2 to permit a living screen on the north property line - **Section 1212.C. - Use Conditions** - Use Unit 11; and to **CONTINUE** the remainder of the application to March 24, 1992, to allow the applicant sufficient time to prepare a landscape plan for the north property line; finding that the abutting property owner to the north is supportive of the application; and finding that approval of the request will not be detrimental to the area, or violate the spirit, purpose or intent of the Code; on the following described property:

Lots 2 and 3, and the south 150' of west 150' of Lot 1, Block 1, Magic Circle Center Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15946

Action Requested:

Variance of the required 20' rear yard to 10' to permit an addition to an existing building - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 5820 East 79th Place.

Presentation:

The applicant, **John Wimbish**, 5314 South Yale, Suite 200, Tulsa, Oklahoma, stated that he is representing the property owners, and submitted a plot plan (Exhibit H-1) for the proposed construction. He explained that his clients are proposing to extend and enclose an existing porch, which will reach to within 10' of the rear property line. Mr. Wimbish stated that the irregular shape of the lot causes the addition to encroach into the setback. He informed that the addition is designed with no windows on the south wall, which would ensure the privacy of the abutting property owners.

Comments and Questions:

In reply to Mr. Doverspike's question concerning building materials, Mr. Wimbish stated that the addition will be constructed of the same building materials as the existing house.

Case No. 15946 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 20' rear yard to 10' to permit an addition to an existing building - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; finding a hardship imposed on the applicant by the cul-de-sac location, the irregular shape of the tract and the placement of the existing structure on the lot; on the following described property:

Lot 28, Block 5, Pleasant Valley Estates, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15947

Action Requested:

Special Exception to permit a dry cleaning business in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15, located 6008-6028 South Memorial Drive.

Presentation:

The applicant, **Kaiser-Francis Oil**, PO Box 21468, Tulsa, Oklahoma, requested by letter (Exhibit J-1) that Case No. 15947 be withdrawn, stating that it has been determined that they are not in need of the requested relief.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, Fuller, "aye"; no "nays"; no "abstentions"; White "absent") to **WITHDRAW** Case No. 15947, as requested by the applicant.

Case No. 15948

Action Requested:

Special Exception to amend a previously approved plot plan (BOA Case No. 12634) by increasing the total square footage by more than 15%, located 5669 South Garnett Road.

Case No. 15948 (continued)

Presentation:

The applicant, **Randy Nicholson**, 707 South Houston, Suite 201, Tulsa Oklahoma, submitted a plot plan (Exhibit K-1), and explained that the City is proposing to expand a City maintenance facility at 56th Street and Garnett Road.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to amend a previously approved plot plan (BOA Case No. 12634) by increasing the total square footage by more than 15%; per plot plan; finding that the construction of an addition to the existing maintenance facility will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

The N/2, NW/4, SW/4 and N/2, S/2, NW/4, SW/4, Section 32, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma, less the north 600' of the west 742' of the N/2, NW/4, SW/4, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15949

Action Requested:

Special Exception to permit park use in an AG and RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT**, located west of the SW/c of West 61st Street and South Union Avenue.

Presentation:

The applicant, **City of Tulsa**, was represented by **Kerry Miller**, 707 South Houston, Tulsa, Oklahoma, who submitted a plot plan (Exhibit L-1) for a City park, which will be located between two single-family subdivisions. He informed that the plans have been reviewed by homeowners in the area, and their concerns have been resolved. Mr. Miller stated that at least 95% of the neighbors have responded favorably to the City's proposal concerning the project.

Comments and Questions:

Mr. Bolzle inquired as to the areas of neighborhood concern, and Mr. Miller stated that landscaping was addressed, and mature trees will serve as a buffer for the developed area but, due to insufficient funds, most 35 acres will remain passive.

Case No. 15949 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Special Exception to permit park use in an AG and RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT**; per plot plan submitted; finding that park use is compatible with the surrounding area, and in harmony with the spirit and intent of the Code; on the following described property:

A parcel of land lying in part of Government Lots 2 and 3, Section 3, T-18-N, R-12-E, Tulsa County, Oklahoma, being more particularly described as follows, to-wit:

Beginning at the NE/c of said Government Lot 2; thence S 0°25'34" W along the west line of Block 1, West Highlands IV, a Resubdivision of Lot 20, Block 1, of West Highlands I for a distance of 1335.85' to a point on the north line of Lot 1, Block 1, Page Belcher Golf Course; thence northwesterly along the boundary of said Lot 1, as follows: N 36°42'34" W, 853.00'; thence N 23°47'26" E, 182.00'; thence N 40°22'34" W, 279'; thence S 44°57'26" W, 344.00'; thence S 06°27'26" W, 456.00'; thence N 67°42'34" W, 514.00'; thence N 15°32'34" W, 133.00'; thence N 72°30'49" W, 771.58' to a point on the east line of Amended Golf Estates II; thence N 29°00'00" E along said east line, 230.00'; thence N 20°07'39" E, 123.37'; thence N 05°57'37" E, 84.03'; thence N 00°23'59" E, 50.00' to the NE/c of said Amended Golf Estates; thence S 89°23'52" E, along the north line of said Section 3, 2005.38' to the point of beginning and being located in an AG and RS-3 zoned district, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15950

Action Requested:

Special Exception to permit church use (Use Unit 5) - Section 401. **PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the required screening fence along the west and south property lines - **Section 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5.

Special Exception to consider amended site plan, located 1430 South 131st East Avenue.

Presentation:

The applicant, **Jonathan Ong**, 994 East 61st Street, No. 3-H, Tulsa, Oklahoma, was represented by **Gary Victor**, 616 South Boston, Suite 400, Tulsa, Oklahoma, who submitted a plot plan (Exhibit M-1) for the Tulsa Chinese Christian Church. He explained that the property was the subject of a previous Board application in 1982, and church use was granted on one lot (Lot 3) at that time; however, that congregation did not construct a building and the approval expired. Mr. Victor stated that his client has now purchased Lot 4, and is requesting that church use also be approved on that lot. He noted that the land to the west is vacant, and asked that screening be waived on the west boundary line until development occurs in that area.

Comments and Questions:

In response to Mr. Bolzle's question concerning screening on the south boundary line, Mr. Gardner informed that the parking area will be 50' from that lot line and screening is not required.

Mr. Doverspike asked if the church proposes any screening, and Mr. Victor informed that a solid screening fence is currently in place along the north and west boundaries of the existing parking lot.

In response to Mr. Fuller, Mr. Jackere advised that the Code stipulates that a waiver of the screening requirement can be granted until development occurs on adjacent property.

Case No. 15950 (continued)

Protestants:

None.

Board Action:

On MOTION of FULLER, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit church use (Use Unit 5) - Section 401. **PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; to **APPROVE** a **Special Exception** to waive the screening requirement along the west property line - **Section 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 5; and to **APPROVE** a **Special Exception** to consider amended site plan; subject to the execution of a tie contract on the two lots; subject to the screening requirement on the west property line being waived until development occurs on the land to the west; finding that church use was previously approved on the tract and continues to be an appropriate use for the area; on the following described property:

Lots 3 and 4, Block 12, Romoland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15951

Action Requested:

Special Exception to permit a restaurant in an IL zoned district - Section 901. **PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 12.

Variance to expand a nonconforming use - **Section 1402. NONCONFORMING USE OF BUILDINGS AND LAND IN COMBINATION** Use Unit 12, located 3302 South Memorial Drive..

Presentation:

The applicant, **Adrian Smith**, 5157 East 51st Street, Tulsa, Oklahoma, represented the Village Inn, a restaurant which has been at the current location for approximately 24 years (Exhibit N-2). He submitted a plot plan (Exhibit N-1) depicting the proposed expansion of the structure. Mr. Smith stated that the restaurant will not be in need of the variance if the special exception is approved.

Protestants:

None.

Case No. 15951 (continued)

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Special Exception to permit a restaurant in an IL zoned district - Section 901. **PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 12; and to **DENY** a **Variance** to expand a nonconforming use - **Section 1402. NONCONFORMING USE OF BUILDINGS AND LAND IN COMBINATION** Use Unit 12; per plan submitted; finding that the restaurant has been operating at the current location for many years and the use is compatible with surrounding businesses; and finding that the approval of the application will not be detrimental to the area; on the following described property:

Beginning at the NE/c of the N/2, SE/4, NE/4, Section 23, T-19-N, R-13-E, Tulsa County, Oklahoma; thence south along the east line of said Section a distance of 150' to a point; thence N 89°57'00" W a distance of 300' to a point; thence north 150' to a point on the north line of said E/2, SE/4, NE/4; thence S 89°57'00" E along the north line of said N/2, SE/4, NE/4 a distance of 300' to the Point of Beginning, less and except the East 50' thereof, which has been dedicated for roadway and utility purposes, City of Tulsa, Tulsa County, Oklahoma

Case No. 15952

Action Requested:

Variance of the required 75' setback from the north property line to 17' to permit a building - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICT** - Use Unit 23, located 4235 North 93rd East Avenue.

Presentation:

The applicant, **City of Tulsa**, was represented by **Mark Rogers**, 4235 North 93rd East Avenue, Tulsa, Oklahoma, who submitted a plot plan (Exhibit P-1) and a letter (Exhibit P-3) from the Department of Public Works. He informed that the airport is proposing to buy the residential properties in the area, including the subject tract, and the zoning will be changed to meet their needs. Mr. Rogers explained that the variance is requested in order to keep the storage building outside the utility easement. He stated that the building, which complies with all current requirements for chemical storage, will be used to store chemicals for sanitary and storm sewer treatment. An aerial photograph (Exhibit P-4) and brochure (Exhibit P-2) were submitted.

Case No. 15952 (continued)

Comments and Questions:

In response to Mr. Doverspike, Mr. Rogers stated that the Tulsa Airport Authority has acquired federal funds and has started acquisition of the surrounding properties.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 75' setback from the north property line to 17' to permit a building - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICT** - Use Unit 23; per plot plan submitted; finding that the building is to be installed at the proposed location to avoid the utility easement; and finding that numerous surrounding properties have been acquired for airport use, and that the granting of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lot 3, Block 1, Preston-Easton First, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15954

Action Requested:

Special Exception to permit a community group home in an RS-3 zoned district - Section 401. **PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 3011 West 80th Street.

Presentation:

The applicant, **Tommy Thompson**, 3011 West 80th Street, Tulsa, Oklahoma, requested permission to operate a residential care facility, which would be licensed to care for no more than 10 ambulatory elderly individuals. He informed that exterior changes will not be made to the dwelling; however, interior changes will be made to comply with all requirements. Mr. Thompson stated that his wife will be administrator, and other employee requirements will be met.

Comments and Questions:

Mr. Bolzle asked how many employees will be required, and the applicant stated that approximately six people will be needed to operate the home.

Case No. 15954 (continued)

Ms. White asked if the tenants will be limited to elderly only, and Mr. Thompson stated that the occupants will be comprised of elderly individuals that can no longer live alone, but do not require nursing care, or 24-hour supervision.

In response to Mr. Fuller, the applicant stated that West 80th Street dead ends at the boundary line of the subject property.

Mr. Bolzle inquired as to the size of the house, and the applicant stated that the house contains approximately 3000 sq ft of floor space and there are five bedrooms. He added that a van will be provided for transportation, but is not sure at this time if some residents will have cars.

Mr. Doverspike asked the applicant if he will live on the premises, and Mr. Thompson replied that he will not live on the subject property.

Protestants:

Marvin McDonald, 3036 West 78th Street, Tulsa, Oklahoma, a representative of the area homeowners association, submitted a petition of opposition (Exhibit R-1) and photographs (Exhibit R-2) of the area. He pointed out that the houses in the neighborhood have lagoons for sewage disposal, and is concerned with the adequacy of the sewage system for the proposed business. Mr. McDonald informed that the dwelling has a wood shingle roof, and it is approximately 1800' to the nearest fire hydrant. He stated that a community group home is contrary to the intended use for the property and asked the Board to deny the request.

In response to Mr. Bolzle, Mr. McDonald explained that the soil in the area will not pass a percolation test and lagoons were installed for sewage disposal.

Mr. Bolzle asked Ms. Hubbard if the City will permit the expansion of an existing sewage lagoon, and she replied that there has not been an application of this nature come to her office.

Mr. McDonald stated that new lagoons can no longer be constructed, but upgrading of existing lagoons is permitted.

Mr. Gardner stated that the subdivision could not be developed under the current City requirements.

Case No. 15954 (continued)

Darla Hall, District 2 City Councilor, stated that the road leading to the property in question is a private road that is not maintained by the City. She pointed out that the dwelling is surrounded by rough terrain, which would be dangerous for elderly residents without sure footing. Ms. Hall stated that, after a site check of the property, it was apparent to her that the proposed location would not be appropriate for an elderly group home.

Jon Ferris, 3021 West 68th Place South, Tulsa, Oklahoma, District 8 Planning Team chairman, stated that the proposed use is not in conformance with the Comprehensive Plan, and would be detrimental to the residential neighborhood.

Jerry Howard, PO Box 368, Jenks, Oklahoma, stated that he was informed by the applicant that there would be only four or five elderly residents kept in the home. He voiced a concern that the group home could eventually become a large nursing center that would not be compatible with the neighborhood.

Fred Moss, 8209 South 33rd West Avenue, Tulsa, Oklahoma, stated that the roads in the area are very narrow, and safety and welfare of the elderly residents could be at risk.

Nelda Wainright, 2951 West 81st Street, Tulsa, Oklahoma, stated that the roads in the area are very dangerous and become impassable during icy weather.

Jim Hines, 7704 South 30th West Avenue, Tulsa, Oklahoma, asked all homeowners opposing the application to stand, and approximately 50 individuals indicated opposition to the special exception request. He asked the Board to deny the application.

Applicant's Rebuttal:

Mr. Thompson stated that it is his intent to provide quality care for the residents, and assured the Board that Oklahoma has very specific laws that govern this type of operation. He pointed out that the Health Department will make the determination as to the adequacy of the lagoon system, and noted that he is only before the Board today to find if the group home is an appropriate land use for the subject property. The applicant stated that a church campground is located on property adjacent to the subject tract, and fighting roosters are raised on another tract that abuts his

Case No. 15954 (continued)

property to the south. Mr. Thompson pointed out that the street leading to his property has been dedicated and accepted by the City, and should be marked with a green sign and maintained by the City.

Additional Comments:

Ms. White stated that some of the neighborhood concerns cannot be addressed by this Board, but are governed by other agencies.

In response to Mr. Bolzle, Ms. Hubbard informed that inspection is required by several agencies before an occupancy permit is issued.

Mr. Fuller asked the applicant if he would be permitted by right to keep six individuals in the home, and he answered in the affirmative.

Ms. White asked Mr. Thompson if he intends to have eight residents, or 10 residents, and he replied that he will be licensed for 10, but will have only eight.

In reply to Mr. Bolzle, the applicant stated that he owns the property in question.

Mr. Fuller remarked that all homes in the area have been constructed on large lots, and the applicant stated that his house is located on 2½ acres.

Mr. Doverspike stated that he is concerned with 12 adult individuals being housed in a 3000 sq ft home and, based on the evidence presented, it appears that the use will not be compatible with the neighborhood and would have a negative impact on the area.

Mr. Thompson asked the Board to approve the use and let the other agencies involved in the process regulate the business.

In response to Mr. Bolzle, Mr. Jackere stated that six mentally or physically impaired or elderly individuals could live in the dwelling by right.

Mr. Jackere advised that the State Licensing Department will consider the number of residents, whether or not the structure meets the fire codes and the welfare of the residents, and the Board will consider the welfare of the neighborhood.

Mr. Bolzle and Ms. White voiced a concern with the inadequacy of streets, water service and fire and police protection in the area.

Case No. 15954 (continued)

Board Action:

On MOTION of WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Special Exception** to permit a community group home in an RS-3 zoned district - Section 401. **PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; finding that the proposed use would be detrimental to the neighborhood, and would violate the spirit and intent of the Code; on the following described property:

NE/4, SW/4, SW/4, SW/4, Section 10, T-18-N, R-12-E,
City of Tulsa, Tulsa County, Oklahoma.

Case No. 15955

Action Requested:

Variance of the 8 sq ft of display surface area for a temporary real estate sign; and a Variance of the 8' height limitation for a temporary real estate sign - **Section 402.B.4.d - Signs** - Use Unit 21, located 7700 South Riverside Drive.

Presentation:

The applicant, **Fourth National Bank**, PO Box 2360, Tulsa, Oklahoma, was represented by **Ted Dubie**, who submitted a plot plan (Exhibit S-1) and photographs (Exhibit.S-2). He requested permission to erect a temporary 8' by 12' for sale sign on the subject property. He pointed out that the property has 970' of frontage on Riverside Drive, and a smaller sign would not be visible to north bound traffic, and would not permit a display of the configuration of the tract.

Comments and Questions:

Mr. Bolzle asked Mr. Dubie if the sign will have a single face, and he answered in the affirmative.

Mr. Doverspike inquired as to the length of time the sign will be needed, and Mr. Dubie replied that the bank will need the sign until the property is sold.

Protestants:

None.

Case No. 15955 (continued)

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the 8 sq ft of display surface area for a temporary real estate sign; and a Variance of the 8' height limitation for a temporary real estate sign - **Section 402.B.4.d - Signs** - Use Unit 21; per plan submitted; 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:

Commencing at the Northeast corner of Section 12, T-18-N, R-13-E, Tulsa County; thence N 89°58'40" W along the North line of said Section 12, a distance of 63.51' to a point; thence S 0°01'20" W perpendicular to said North line, a distance of 75.00'; to a point on the West right-of-way for the proposed Riverside Parkway, thence S 9° 27'33" E along said right-of-way, a distance of 914.16' to a point; thence along a curve to the left having a central angle of 29° 20'00", a radius of 1,348.24', for an arc distance of 690.25' to a point; thence S 38° 47'33" E a distance of 39.01' to a point; thence along a curve to the right having a central angle of 1° 01'18", a radius of 44,789.56', for arc distance of 798.66' to a point; thence continuing along said right-of-way S 37° 46'15" E parallel to the southwesterly line of Block 8, "Kensington II Amended", an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the official recorded plat thereof, a distance of 924.29' to the point of beginning of Tract "F"; thence continuing S 37° 46'15" E a distance of 550.00' to a point; thence S 52° 13'45" W a distance of 798.66' to a point; thence N 37° 46'15" W a distance of 550.00' to a point; thence N 52° 13'45" E a distance of 798.66' to the point of beginning, said Tract "F" containing 439,263.79 square feet or 10.0841 acres more or less; and commencing at the point of beginning of Tract "F"; thence S 37°46'15" E along the West right-of-way of Riverside Parkway, a distance of 550.00' to the point of beginning of tract "G" thence continuing S 37° 46'15" E a distance of 420.00' to a point; thence S 52° 13'45" W a distance of 465.00' to a point; thence N 82° 46'15" W a distance of 242.68' to a point; thence N 37° 46'15" W a distance of 242.68' to a point; thence N 37° 46'15" W a distance of 248.40' to a point; thence N 52° 13'45" E a distance of 636.60' to the point of beginning; said Tract "G" containing 252,648.00 square feet or 5.80 acres more or less, and being located in a RM-2/PUD128-E Zoned District.

Case No. 15959

Action Requested:

Special Exception to permit a retail liquor store in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 13, located 4107 Southwest Boulevard.

Presentation:

The applicant, **Gearl Adkins**, 4107 Southwest Boulevard, Tulsa, Oklahoma, informed that she is currently operating a liquor store next door to the subject property. She requested permission to move her business to the new location.

Comments and Questions:

Mr. Bolzle asked if the existing store is expanding, and the applicant stated that she is proposing to move her business from the current location to the building next door that was formerly occupied by the Pizza Hut.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a retail liquor store in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 13; finding that the liquor store has been operating next door to the proposed site for several years, and the granting of the special exception request will not be detrimental to the area because of the size of the tract; on the following described property:

Part of Lot 4, Beginning SW/c Lot 4, thence north 115' south R/L of Southwest Boulevard, thence northeast on R/W 30' southeast to a point on south line, Lot 4, thence southwest 15' to the Point of Beginning, and all of Lot 5, and E/2 of Lot 6, Block 6, Park Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 15947

Action Requested

The applicant, **Kaiser-Francis Oil**, requested by letter (Exhibit J-1) that application fees for Case No. 15947 be refunded.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **REFUND** the public hearing portion of the filing fee in the amount of \$25.00; finding that the application had been fully processed except for the hearing.

There being no further business, the meeting was adjourned at 4:00 p.m.

Date Approved

March 10, 1992


Chairman