

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 627
Tuesday, February 23, 1993, 1:00 p.m.
Francis F. Council City Council Room
Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle, Chairman Chappelle Doverspike S. White T. White		Jones Moore	Jackere, Legal Department Parnell, Code Enforcement Hubbard, Public Works

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, February 19, 1993, at 1:09 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 **S. WHITE**, the Board voted 4-0-1 (Bolzle, Chappelle, , S. White, T. White, "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to **APPROVE** the Minutes of February 9, 1993 (No. 626).

UNFINISHED BUSINESS

Case No. 16232

Action Requested:

Variance to exceed the maximum 4' fence height in a required front yard and the maximum fence height of 8' in rear and side yards, a variance to the maximum square footage allowed for a detached accessory building from 750 sq ft to 2520 sq ft, a variance of the maximum required rear yard coverage for a detached accessory building from 20% to 46.3% and a variance of the required side yard from 5' to 0' to permit a building to be built across interior lot lines - **Section 210. YARDS and Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6**, located SW/c of Admiral Court and North Columbia Avenue.

Presentation:

The applicant, **Daniel Dawson**, PO Box 54038, Tulsa, Oklahoma, stated that many of the photographs prepared for Board review were left in another vehicle, and requested a continuance until he can provide materials to adequately present his case.

Case No. 16232 (continued)

Comments and Questions:

In response to Mr. Bolzle, Mr. Dawson stated that he left the photographs and a plot plan in another vehicle.

Mr. Bolzle advised that the Board has already been provided a plot plan and photographs of the area.

Protestants in the audience objected to another continuance, and Mr. Bolzle asked the applicant to continue with his presentation.

Mr. Dawson stated that his fence will comply with Code requirements if it is moved out of the front yard. He informed that all of the older buildings in the area are closer to the street than the current Code permits. The applicant submitted photographs (Exhibit A-1), and requested that the existing metal fence be permitted to remain. In regard to the accessory building, Mr. Dawson stated that this structure is a gym room, and he prefers to leave it detached because of the driveway. He informed that it is not his intent to have a salvage operation, but some vehicles are being temporarily stored on his property.

Comments and Questions:

Mr. Doverspike inquired as to the height of the accessory building, and the applicant stated that it is less than 27'. He pointed out that there are 12' fences in other residential areas, such as along Lewis and Harvard Avenues. The applicant noted that the character of the neighborhood has changed, due to the approval of commercial zoning in the area.

In reply to Mr. Bolzle, the applicant stated that there are two houses on the property.

Protestants:

Peggy Galloway, 2625 East Admiral Court, represented her mother, who is a resident of the neighborhood. She submitted photographs (Exhibit A-2) depicting the condition of property inside the fence. Ms. Galloway informed that the house was moved in and has never been finished. She added that there is a lot of noise during the nighttime hours, and requested that the applicant be required to comply with the Code and clean up the area.

Applicant's Rebuttal:

Mr. Dawson stated that, although there are two antique cars and a truck parked on the property, he is not operating a business. He explained that the vehicles were previously stored at another location and will be removed soon. He stated that the fence, which was

Case No. 16232 (continued)

installed approximately two years ago, is properly maintained and is not detrimental to the neighborhood. He clarified that the nighttime noise was caused by a person who came by to feed his dog, and that the dog is no longer on the property.

Mr. Bolzle asked the applicant if he and his brother live in the two houses, and he answered in the affirmative. He explained that his brother works out of town, but returns on the weekend, and the two parked cars belong to his brother and sister. He stated that both cars have mechanical problems and are going to be repaired.

Additional Comments:

Mr. Doverspike concluded that a hardship unique to the property has not been presented, and Ms. White stated that she site checked the property, and is in agreement with Mr. Doverspike's conclusion. She added that the gate was ajar when she visited the site, and the photographs seem to accurately portray the condition of the property.

Mr. Doverspike stated that there is no physical hardship associated with the property that would warrant the granting of this type of relief.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **DENY** a **Variance** to exceed the maximum 4' fence height in a required front yard and the maximum fence height of 8' in rear and side yards, a variance to the maximum square footage allowed for a detached accessory building from 750 sq ft to 2520 sq ft, a variance of the maximum required rear yard coverage for a detached accessory building from 20% to 46.3% and a variance of the required side yard from 5' to 0' to permit a building to be built across interior lot lines - **Section 210. YARDS and Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6**; finding that the applicant failed to demonstrate a hardship that would warrant granting the variance requests; and finding that approval of the application would violate the spirit and intent of the Code, and would be injurious to the neighborhood; on the following described property:

Lots 1, 2, 3 and 4, Block 4, Fairmont Addition, City of Tulsa, Tulsa County, Oklahoma

Case No. 16217

Action Requested:

Variance of the required 30' of frontage on a public street to permit a lot split - **Section 206**. Use Unit 6, located 10509 South 71st East Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, represented Mr. and Mrs. Don Temple, owners of the property in question. He informed that the subject property (Reserve Area B) consists of approximately six acres, and was purchased by his client as a home site, with the possibility of creating additional lots in the future. Mr. Johnsen stated that the average size of the lots in Forest Trails Addition is approximately 30,000 sq ft, and his client is proposing to divide the six-acre tract into four lots, all of which will exceed the average lot size in the addition. He pointed out that the property could actually be split into nine lots and comply with the 10,000 sq ft minimum lot size for RS-2 zoning. The applicant informed that Reserve B was established as a detention facility in the declaration of covenants, with the land reverting to the subdivider if it was not used. He informed that the City vacated the reserve area in 1984, and the property was then available for development. Mr. Johnsen stated that the City is proposing to extend the City sewer system (Exhibit B-2) to Forest Trails and requested that his client dedicate an easement for the extension. The applicant explained that Mr. Temple has been advised that the sewer charge and connection cost is calculated on the square footage of each lot, and he is reluctant to pay the large fee. Mr. Johnsen informed that, if the property remained as one parcel, Mr. Temple would be responsible for paying 14% of the sewer extension cost (\$33,000 to \$74,000), and this has prompted the decision to divide the property into four separate lots. A plot plan (Exhibit B-1), an aerial (Exhibit B-3) and photographs (Exhibit B-4) were submitted. He emphasized that the RS-2 zoning would permit 10,750 sq ft lots in the area. Mr. Johnsen informed that a 30' panhandle will serve as road access to the four lots, and pointed out that a similar application has been approved in the area. Mr. Johnsen stated that his client is proposing to construct a street and cul-de-sac that will comply with the Fire Marshall's requirements. He informed that all water flow in the creek will be controlled by the installation of a 10' by 10' concrete box, with a street crossing on top. He stated that this project will be closely monitored by the City Hydrology Department. In closing, Mr. Johnsen stated that Mr. Temple's home is the only proposed

Case No. 16217 (continued)

construction at this time. He pointed out that the configuration and size of the property is unusual, and the density is far below that which the zoning permits.

Comments and Questions:

Mr. Doverspike asked the applicant if improvements on the lots would be required to comply with the original plat, and he replied that he does not believe those restrictions are applicable to Reserve B, but his client would be amenable to accepting the same conditions.

Protestants:

John Moody, 550 Oneok Plaza, informed that he is representing owners of lots in the Forest Trails Addition and in particular, Dr. Richard Ranne and Mr. Jack Gale. Mr. Moody submitted a location map (Exhibit B-7), and informed that Reserve Area B was intended as a drainage way, and that all property along the creek is prone to erosion. He pointed out that the 30' access road was installed for use in maintaining the reserve area, and was not intended to be a private or public street. Mr. Moody informed that the Technical Advisory Committee has required that the street comply with all public street requirements, and is to be above the 100-year floodplain mark (658'). He pointed out that there is a 25' drop from the entrance to the creek bed, and an elevated road could reduce water flow and serve as a type of dam. Mr. Moody stated that a hardship has not been presented, and the request is not in harmony with the spirit and intent of the Code. A photograph (Exhibit B-5) of the creek was submitted.

Jack Gale, 6845 East 105th Street, stated that the area around the creek has numerous underground springs and the banks are eroding rapidly. He informed that the width of the creek has doubled in the three years he has lived in the addition. He expressed doubt as to the ability of a 10' by 10' box to adequately carry the excess water runoff during periods of heavy rain.

In response to Mr. Bolzle, Mr. Gale stated that his residence is to the northwest of the proposed street entrance to the property.

Richard Ranne, 10515 South 71st East Avenue, stated that all property owners in the addition were told that the reserve area would be used for stormwater management, and not for development. He stated that he has lost approximately 6' of his property along the creek, because of projects to the west that have channeled water through the detention pond to the north. Mr. Ranne pointed out

that flood control is needed in the area, and not further development. Mr. Ranne noted that research has indicated that the proposed 10' by 10' box would be 5' under water during rainy seasons. He further noted that the sewer extension is important to the neighborhood, because sewage surfaces at many locations.

Al Reynolds, 3790 East 82nd Court, informed that he purchased a lot next door to Mr. Gale's property, and was assured that Reserve B would always be a greenbelt and remain undeveloped. He pointed out that the owner of the 6-acre tract has been paying \$3 per year in taxes. Mr. Reynolds asked that the presence of the interested parties be acknowledged, and approximately 20 individuals indicated an interest in the application. He asked the Board to deny the request, and preserve the integrity of the neighborhood.

Alicia Ranne, 10515 South 71st East Avenue, stated that the proposed lot split will be injurious to the neighborhood. She pointed out that sewage disposal is a problem in the area, and additional development is not appropriate.

Ms. Trujillo, 6826 East 105th Street, stated that her primary concern is the sewage, which surfaces and runs in the streets.

Bill Horn informed that he lives in Bridle Trails Addition, which is located to the east of Lot 4, and stated that he is opposed to the reserve area being used for further development. He also voiced a concern with City or County funds being used to maintain the proposed bridge.

Applicant's Rebuttal:

In regard to the drainage issue, Mr. Johnsen stated that his client had an engineer review the statistics the City has provided, and he has determined that the proposed 10' by 10' box will adequately drain all water runoff. He informed that the road above the box will be one foot above the 100-year floodplain mark (655'), and will comply with City specifications. Mr. Johnsen stated that his client will give the City a sewer easement if he is permitted to split the property into four lots. He added that this is necessary to keep the owner from paying a disproportionate assessment of sewer costs. Mr. Johnsen reiterated that the square footage of each proposed lot will far exceed the size of existing lots in the subdivision. He informed that all property owners within 300' of the property were notified when the reserve area was given up by the City. Mr. Johnsen stated that the

Case No. 16217 (continued)

street providing access to the lots will comply with City standards, and the four lots will comply with all covenants for the subdivision.

Mr. Doverspike asked if the plat states that the property returns to the subdivider if vacated, and Mr. Johnsen answered in the affirmative.

In response to Mr. Doverspike, the applicant stated that one house with a paved street could be constructed on the property by right.

Mr. Bolzle asked the applicant to address Mr. Moody's comment that the street would require elevation over the creek and low area. Mr. Johnsen replied that the road will follow the terrain of the land and will not have an adverse impact on abutting properties.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-1-0 (Bolzle, Chappelle, S. White, T. White, "aye"; Doverspike, "nay"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street to permit a lot split - Section 206. Use Unit 6; per plan submitted; subject to all improvements being in compliance with all subdivision plat and covenant restrictions; subject to a mutual access easement being filed of record; and subject to TMAPC approval; finding that the proposed lots and street will be comparable to those in the existing subdivision, and approval of the variance will not be injurious to the neighborhood; finding that the reserve area has been vacated by the City and has reverted to the subdivider; and finding a hardship demonstrated by the size and location of the tract; on the following described property:

Reserve B of Forest Trails Addition, City of Tulsa,
Tulsa County, Oklahoma.

Case No. 16262

Action Requested:

Variance of the required setback from the centerline of East 31st Street from 70' to 60' to permit a detached accessory building, and a variance to permit a two-story detached accessory building - Section 210.B.5 Permitted Obstructions in Required Yards - Use Unit 6, located 2232 East 30th Place.

Presentation:

The applicant, Ted Larkin, 9901 South Sandusky, was represented by Charles Norman 2900 Mid-Continent Tower, who submitted a plot plan for the proposed construction. He informed that his client is planning to build a detached garage and hobby room, which will provide a storage area for his boat and recreational vehicles. Mr. Norman stated that a hobby room will be located in the area above the garage. He noted that the City advised him that they do not plan further street improvements at this location. Mr. Norman informed that the structure will not have windows on the south side, and the brick veneer exterior will be painted to match the exterior of the dwelling. Photographs (Exhibit C-3) were submitted.

Protestants:

Susan Brown, 2242 East 30th Place, stated that she lives next door to Mr. Norman's client, and pointed out that there are no detached accessory buildings in the development. She voiced a concern with building density and reduced air circulation, and noted that the garage will be only 15' from her back yard, and windows are proposed for that side of the structure. Ms. Brown informed that there are some drainage problems in the immediate area, and stated that she is concerned with the pouring of additional concrete.

Applicant's Rebuttal:

Mr. Norman stated that the accessory building will provide indoor storage for articles that are sometimes left outside. He pointed out that, if attached to the dwelling, the garage would be permitted by right. In regard to the setback requirement, Mr. Norman noted that the right-of-way does not meet the City requirement anywhere in the immediate area. He added that there will not be a living-area window that looks into the Walker's back yard.

Mr. Bolzle pointed out that the property has setback requirements on two streets.

Interested Parties:

Mr. Bolzle informed that Staff has received one letter of support (Exhibit C-2).

Case No. 16262 (continued)

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Chappelle, S. White, T. White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East 31st Street from 70' to 60' to permit a detached accessory building, and a variance to permit a two-story detached accessory building - **Section 210.B.5 Permitted Obstructions in Required Yards** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the fact that East 31st Street is designated on the Major Street and Highway Plan as a 100' secondary arterial and contains only 40' of right-of-way dedication; on the following described property:

Lot 5, Block 20, Forrest Hills, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16277

Action Requested:

Minor Special Exception to amend a previously approved plot plan, 9023 East 46th Street.

Presentation:

The applicant, **Oklahoma Natural Gas Company**, 5848 East 15th Street, was represented by **Craig Brownlee**, 4016 South Columbia Place, requested that the previously approved plan for the US Post Office be amended to include a canopy and pad for a natural gas fueling station.

Protestants:

None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 3-0-0 (Bolzle, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, Doverspike, "absent") to **APPROVE** a **Minor Special Exception** to amend a previously approved plot plan; per plan submitted; finding that the addition of a canopy and natural gas fueling pad will not be detrimental to the area, which is zoned industrial; on the following described property:

Amendment to the A portion of the NE/4 SW/4 of Section 23, T-19-N, R-12-E, more particularly described as follows: Beginning at a point located on the South boundary of the SE/4 NE/4 SW/4 of said Section 23, which point is 480.15 feet east of the southwest corner of NE/4 SW/4 of Section 23, thence

Case No. 16277 (continued)

east along the south boundary of the NE/4 SW/4 of said section a distance of 352.35 feet to a point, thence north and parallel to the west boundary of said Section 23 a distance of 240 feet to a point, thence west a distance of 352.35 feet to a point, thence south and parallel to the west boundary of said section a distance of 240 feet more or less, to the point of beginning, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16267

Action Requested:

Appeal the decision of the Administrative Official that a business is being conducted on the property, and appeal the requirement to remove parked vehicles, equipment, supplies and an existing accessory building in an RS-3 District - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 25, located 8718 South Vandalia Avenue.

Presentation:

The applicant, **E. L. Parker**, 8718 South Vandalia, stated that he purchased two lots in 1959, and planned to build a house on one lot and park his equipment on the other. Mr. Parker informed that he carried out his plans and has been parking his equipment there since that time, with no complaints. He stated that he has recently received a violation notice (Exhibit E-1). Photographs (Exhibit E-2) from Code Enforcement were submitted.

Comments and Questions:

In response to Mr. Bolzle, Mr. Jackere advised that the City had zoning jurisdiction outside of the corporate limits as far back as 1963. He stated that the applicant has the burden of proving that he was not subject to zoning at the time the use began, and that the use has been continuous.

Mr. Jackere advised that the application could be continued to allow sufficient time for Staff and the applicant to gather additional information.

It was the consensus of the Board that the case should be continued to allow sufficient time for additional research.

Case No. 16267 (continued)

Mr. Jackere asked if there are improvements on the lot containing the equipment, and the applicant stated that there is one building with a shed. He informed that the shed is approximately 10' by 15', and the building is 8' by 10'.

Mr. Parker submitted a letter (Exhibit E-3) from the previous owner of the property.

Board Action:

On MOTION of S. WHITE, the Board voted 4-0-0 (Bolzle, Chappelle, S. White, T. White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **CONTINUE** Case No. 16267 to March 9, 1993, to permit additional research.

Case No. 16268

Action Requested:

Special Exception to permit a mobile home in an RM-1 District, and a variance of the one year time limitation to permanent - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS and Section 404. SPECIAL EXCEPTION REQUIREMENTS** - Use Unit 9, located 735 North Quaker Avenue.

Presentation:

The applicant, Tony Mortimer, 735 North Quaker, was represented by Ira Kirby, who explained that he has been before the Board on two previous occasions and received permission for temporary mobile home use on the property. He informed that the property is properly maintained, and requested permanent approval for the mobile home.

Comments and Questions:

Mr. Bolzle asked if the mobile home is skirted and has been placed on a permanent foundation, and Mr. Kirby answered in the affirmative.

Protestants:

None.

Board Action:

On MOTION of S. WHITE, the Board voted 4-0-0 (Bolzle, Chappelle, , S. White, T. White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an RM-1 District, and a **variance** of the one year time limitation to permanent - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS and Section 404. SPECIAL EXCEPTION REQUIREMENTS** - Use Unit 9; finding that the mobile home has been at the current location for several years and

Case No. 16268 (continued)

has proved to be compatible with the surrounding residential neighborhood; on the following described property:

Lots 25 and 26, Block 11, Capital Hill Addition,
City of Tulsa, Tulsa County, Oklahoma.

Case No. 16269

Action Requested:

Variance of the required setback from the centerline of South Yale from 85' to 55' - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 4905 East 27th Place.

Presentation:

The applicant, **Steve Trotter**, 5318 West 39th Street, was represented by **Lex Densmore**, 6427 South 120th West Avenue, Sapulpa, Oklahoma, who explained that his company is proposing to add a 10' by 20' kitchen addition to an existing dwelling. He stated that the building wall will be 5' inside the property line along Yale Avenue, and there will be approximately 35' of yard between the addition and the street. He pointed out that the house in question and the surrounding structures were originally constructed 65' from the centerline of Yale Avenue. A plot plan (Exhibit F-3) and a photograph of the property (Exhibit F-2) were submitted.

Interested Parties:

One letter of support (Exhibit F-1) was submitted.

Comments and Questions:

In response to Mr. Bolzle, Mr. Densmore clarified that the current setback requirement is 85'; however, the setback was only 65' when the house was constructed.

Mr. Jones informed that Yale Avenue is designated as a 100' secondary arterial with 50' of right-of-way from the centerline. He noted that the applicant is not requesting that the structure extend into the designated right-of-way.

Ms. White asked Mr. Densmore to state the hardship for the request, and he replied that the placement of the house on the lot would make it necessary to completely relocate the kitchen if the variance is not approved.

Case No. 16269 (continued)

Mr. Jones advised Mr. Densmore that it is the burden of the applicant to demonstrate a hardship, as defined by the Zoning Code. He added that this is determined by exceptional narrowness, shallowness, shape, topography, or other conditions that would cause the literal enforcement of the Code to result in an unnecessary hardship.

Mr. Densmore reiterated that there is no other way to extend the kitchen without an addition along Yale Avenue, or a major reconfiguration of the entire structure.

Steve Trotter, 5318 West 39th Street, stated that he is Mr. Densmore's business partner and explained that the existing garage and driveway prevent construction on the north, and the only open space for construction is behind the garage.

Mr. Bolzle stated that he finds nothing unique about the property that would justify the variance request.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **DENY** a **Variance** of the required setback from the centerline of South Yale from 85' to 55' - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; finding that a hardship was not presented that would warrant the granting of the requested variance; and finding that the new addition would extend to within 5' of the City right-of-way and would extend closer to the street than the existing dwelling to the north; on the following described property:

Lot 11, Block 9, Grandview Manor Addition, Blocks 8-13, being an addition to the City and County of Tulsa, Oklahoma.

Case No. 16270

Action Requested:

Special Exception to permit a living skills center (Use Unit 5) in an RM-1 District, and a variance of the number of required parking spaces - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 507 North Atlanta Place.

Presentation:

The applicant, TransVoc, Inc., 507 North Atlanta Place, was represented by Rick White, who stated that this application is a different application than the one that was denied in 1991. He explained that TransVoc is a workshop that trains developmentally disabled individuals and teaches them to do some assembly work. Mr. White stated that he did not attend the previous hearing, but was informed that the Board had made the determination that the operation had outgrown the facility. He requested that TransVoc be permitted to resume the operation as it existed before 1988 (Exhibit G-5), except for the administrative offices, which will be moved to another location. Mr. White informed that only 10 staff and 45 clients are now proposed, with the previous number being for 29 staff and 60 clients. In regard to parking, Mr. White submitted a packet (Exhibit G-6) containing an explanation of the use and a rendering of the proposed 14-space parking lot, and stated that the lot will be landscaped, fenced and properly maintained. He pointed out that the parking lot will provide sufficient on-site staff parking, and alleviate the problem with cars parked along the street and in the neighborhood. Mr. White informed that the clients are brought by their parents, taxi or van, and these vehicles will not remain on the property. He stated that the neighborhood protestants voiced a concern about the delivery of materials, and pointed out that there were only three trucks making deliveries in 1993. Mr. White stated that trucks larger than pickups make very few deliveries to the facility, and pointed out that a warehouse, which was approved years ago by the Board of Adjustment, is a use by right and would generate much more truck traffic.

Comments and Questions:

In response to Ms. White, Mr. White stated that the loading dock will remain at its current location.

Ms. White asked if the parking lot will be secured after business hours, and Mr. White stated that the parking lot can be locked after hours.

Protestants:

Sherry Hoort, 123 North Atlanta Place, stated that she represents 47 area residents who signed a petition (Exhibit G-1) in opposition to the proposed use. She pointed out that this request is not significantly different from the previously denied application. Ms. Hoort stated that a return to the 1988 operation would permit only 5 employees and 26 clients. She pointed out that TransVoc previously requested that 53 clients be served and now they are requesting 55, both of which would create a use too intense for the neighborhood. Ms. Hoort stated that it was determined at the previous hearing that the construction of a parking lot on the residential lot would expand the current operation into an established neighborhood. She informed that the Kendall-Whittier Plan is the next neighborhood planned for down zoning from multi-family to single family (Exhibit G-3), and asked the Board to deny the request and allow the continued revitalization of the neighborhood. Photographs (Exhibit G-4) were submitted.

Lewis Hoort, 123 North Atlanta Place, stated that TransVoc has a negative impact on the residential neighborhood. He pointed out that the same problems still exist, and growth of the operation has caused it to be incompatible with the area. Mr. Hoort stated that trucks are loaded and unloaded in the street, and there are no sidewalks for their clients. He pointed out that traffic in the neighborhood has already increased, due to a 23% increase in the enrollment at Cleveland School, as well as additional staff. He submitted a letter (Exhibit E-2) from Memorial Christian Church, and questioned the location of the other staff members.

Eleanore Bodenhamer, 120 North Birmingham, stated that she purchased her home in the area because of the Kendall-Whittier Plan, which was to upgrade and stabilize the neighborhood. She informed that her home was found to be historically significant, as well as four others in the area. Ms. Bodenhamer stated that the parking lot will be detrimental to the neighborhood.

Applicant's Rebuttal:

Mr. White stated that the current use is lawful, and asked the Board to allow his client to improve the property by installing a parking lot.

Additional Comments:

Mr. Bolzle asked Mr. White to state the difference between this application and the one previously denied. He replied that the previous request was for the entire operation to be located at this location; however, the current application is for 10 employees and the workshop.

Case No. 16270 (continued)

Connie Kritzberg, 1345 North Lewis Avenue, stated that TransVoc is a living skills center, which is combined with skilled training, and asked the Board to permit the operation to continue at this location.

It was the consensus of the Board that this application is not significantly different from the previously denied application. They concluded that the parking lot would be a substantial encroachment into the residential area, and that the intensity of the use would be injurious to the neighborhood.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **DENY** a **Special Exception** to permit a living skills center (Use Unit 5) in an RM-1 District, and a variance of the number of required parking spaces - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; finding that the application is not significantly different from the one previously denied; finding the proposed parking lot to be a substantial encroachment into a stable residential area; and finding the intensity of the use to be injurious to the neighborhood; on the following described property:

The south 100' of Block 1, Cherokee Heights Addition to the City and County of Tulsa, Oklahoma.

Case No. 16271

Action Requested:

Appeal the decision of the Administrative Official that a banquet facility is being operated on the subject property - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 19, located 223 West 28th Street.

Presentation:

The applicant, **E. Ashley Gaiters**, 2737 North Boulder, informed that the building has been in place for approximately 50 years, and at the time of annexation it was used as a youth center. He stated that the current use is the same as the initial use, in that the chef trains young people in the area of culinary arts. Mr. Gaiters stated that the exterior of the building has not been altered, and adequate parking is provided.

Case No. 16271 (continued)

Marcelene Black stated that she owns the Celebrity banquet facility, and explained that a car show was held on the property, and other events are conducted (Exhibit H-5), all of which have adequate security. She informed that the restaurant serves meals to the public every day.

Comments and Questions:

Ms. White inquired as to the hours of operation for the restaurant, and Ms. Black replied that the restaurant is open from 7 a.m. to 9 p.m..

Ms. White asked if the facility is rented to private groups, and Ms. Black stated that she rents the building, but is always on the premises to provide security.

In response to Mr. Jackere, Mr. Jones informed that the INCOG land use map designates the building as a VFW Hall.

Mr. Doverspike inquired as to the length of time the restaurant has been at this location, and Ms. Black stated that it has been open and serving food for three months.

Protestants:

Edna Gibbs, 2815 North Boulder, stated that she is representing the neighborhood (Exhibit H-2), and stated that the current use of the property has caused additional traffic problems, and increased loitering in the neighborhood. She informed that the property is used for various activities, one of which was a car show that charged admission. Ms. Gibbs submitted a newspaper advertisement and ticket (Exhibit H-4) for a Black History Celebration Dance to be held at the Celebrity Ballroom, which gave the address of the subject property. She stated that the events generate a lot of noise in the neighborhood.

Alvin Mayes, 2803 North Boulder, stated that he has lived in the neighborhood for approximately 30 years, and the building was initially used for a youth center, then it was purchased by the VFW and later sold. He stated that late events create a lot of traffic during the nighttime hours, which is a problem for the neighborhood. Mr. Mayes stated that a young man was recently killed in the street near his home.

Mr. Jackere stated that the Board should determine if the use has changed since the initial youth center began operation. Mr. Jackere asked Mr. Mayes if a restaurant, which served the general public, has ever been in operation at this location, and he replied that there has never been a restaurant in the building.

Case No. 16271 (continued)

Virg Taylor, 2730 North Boulder, stated that he has lived in the area for approximately 30 years, and the building was initially used a field house for young people in the area. He pointed out that the building was always used for non-profit purposes, and stated that he is opposed to a commercial use operating at this location. Mr. Taylor stated that loitering and violence accompany the activities that are held on the property.

Ms. Busby, 2808 North Boulder, stated that her property abuts the property in question, and the loud music played at special events can be heard clearly inside her home until approximately 3 a.m. She stated that she was a witness to the killing referred to by Mr. Mayes, and activities that bring about this type of violence are not welcome in the neighborhood.

One letter of protest (Exhibit H-3) was submitted.

Interested Parties:

Robert Williams, 2804 North Boulder, stated that he has lived in the area since 1964, and is supportive of the restaurant use. He informed that he eats in the restaurant regularly, and the death of the young man was not the first violent act that stemmed from the use of the building, because there was a murder on the property when it was owned by the VFW. Mr. Williams requested that the restaurant be permitted to continue operation at the current location. He pointed out that there has been no disturbance in the neighborhood since Ms. Black has been operating her restaurant.

Applicant's Rebuttal:

Mr. Gaiters stated that the VFW had dinners in the building, and bingo games have been held at various times. He stated that the building was made available to students for a school prom, and those involved in that activity had no idea that a misunderstanding would result in a killing. He stated that the property was annexed to the City of Tulsa on July 8, 1957.

Additional Comments:

In response to Mr. Doverspike, Ms. Hubbard stated that Ms. Parnell had required the applicant to obtain a zoning clearance permit (Exhibit H-1), which was applied for in her office. Ms. Hubbard informed that the permit was denied, based on the uses that were requested by the applicant.

Mr. Jones informed that the only request that has been advertised is the appeal from the decision of the administrative official that a banquet facility is being operated on the subject property.

Case No. 16271 (continued)

Mr. Jackere stated that the applicant has admitted that a banquet facility is being operated on the property, and all issues relating to the violation should be considered by the Board. He advised that there are two issues involved in the application, one of which is a determination if the applicant is operating a banquet facility, and the other is, even if a banquet facility is being operated, if it is a nonconforming use and not a violation of the Code.

Mr. Doverspike stated that there is evidence that the property is being used for banquet purposes.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **UPHOLD** the decision of the administrative official, and **DENY** an **Appeal** of the decision of the Administrative Official that a banquet facility is being operated on the subject property - **Section 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**; finding that adequate evidence has been submitted that would verify the fact that a banquet facility is being operated on the subject property; finding that a restaurant, which is open to the public (7 days each week) is being operated in the facility; finding that the current use (restaurant, banquet services, dances and similar activities) is not substantially similar to the initial use of the property and, therefore, is not a nonconforming use; on the following described property:

Beginning 80.83' west of SE/c of Lot 7, thence north 290.4', west 300', south 290.4', east 300' to beginning, Section 23, T-20-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16272

Action Requested:

Special Exception to permit a children's nursery in an RS-3 District - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located SW/c of North Yorktown Place and East 50th Street North.

Comments and Questions:

Mr. Jones stated that he has spoken with Ed Rice, chief inspector for the City, who informed that the conversion of a residential house to a day care center requires compliance with many standards. He advised the applicant that major changes in the structure may be required, and that she may want to investigate these requirements

Case No. 16272 (continued)

before the Board acts on the case. He pointed out that, if the required changes to the dwelling are not economically feasible, some of the application fees may be refunded.

Presentation:

The applicant, **Mount Galloway**, 2104 East 50th Street North, requested that the application be continued to March 9, 1993.

Protestants:

The protestants were not opposed to the requested continuance.

Board Action:

On MOTION of **CHAPPELLE**, the Board voted 4-0-0 (Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **CONTINUE** Case No. 16272 to March 9, 1993.

Case No. 16273

Action Requested:

Variance of the required 30' front yard, and a variance of the 20' required side yard for yards with garages accessing a public street to clear title on an existing residence - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 3221 East 80th Street South.

Presentation:

The applicant, **Jeffrey Lower**, PO Box 702705, submitted a plat of survey (Exhibit J-1), and informed that the request involves an existing dwelling. He stated that the house was constructed over the lot line, and the variance is required to clear the title.

Comments and Questions:

Mr. Chappelle asked if the dwelling has been altered in any way, and the applicant replied that there have been no changes. Mr. Lower informed that his client is now proposing to sell the property.

Protestants:

None.

Board Action:

On MOTION of **CHAPPELLE**, the Board voted 3-0-0 (Chappelle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Bolzle, S. White, "absent") to **APPROVE** a **Variance** of the required 30' front yard, and a variance of the 20' required side yard for yards with garages accessing a

Case No. 16273 (continued)

public street to clear title on an existing residence - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5; per plat submitted; finding that the house is existing, and the request is to clear the title; and finding that approval of the application will not be injurious to the neighborhood; on the following described property:

Lot 21, Block 10, Amended Walnut Creek, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 16274

Action Requested:

Variance of the 10' setback from a freeway to permit the alteration of an existing ground sign - **Section 1221.C.1. General Use Conditions for Business Signs** - Use Unit 21, located 11620 East Skelly Drive.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, was represented by **Duane Gooding**, who submitted a photograph (Exhibit K-1) and sign plan (Exhibit K-2) for the proposed sign. He informed that the sign structure has been at the current location for approximately 15 years. Mr. Gooding explained that the sign face will be changed from Southwest Airport to Econo Lodge, and that Econo Lodge has specifications that are the same nationwide. He requested permission to remove the face of the existing sign and install the Econo Lodge sign on the same pole structure.

Comments and Questions:

Mr. Doverspike asked if the height of the sign will change, and Mr. Gooding replied that the height will remain the same, as well as the size.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Chappelle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Bolzle, S. White "absent") to **APPROVE** a **Variance** of the 10' setback from a freeway to permit the alteration of an existing ground sign - **Section 1221.C.1. General Use Conditions for Business Signs** - Use Unit 21; per plan submitted; finding that the sign structure has been at the same location for approximately 15 years, and that only the sign face will be changed, with the size and

Case No. 16274 (continued)

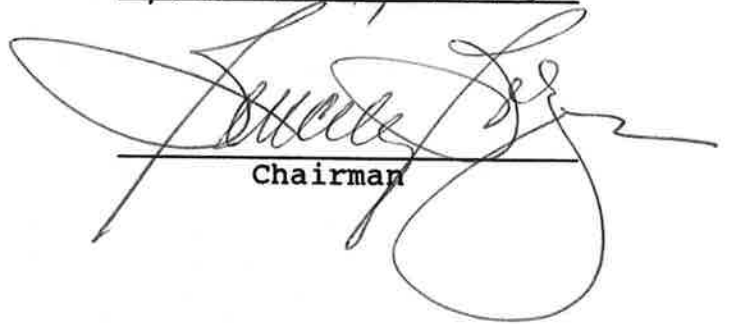
height remaining the same; and finding that approval of the variance request will not be injurious to the area; on the following described property:

Lot 1, Block 1, Sho-Me Addition, and addition to the City and County of Tulsa, Oklahoma.

There being no further business, the meeting was adjourned at 4:40 p.m.

Date Approved

March 9, 1993


Chairman