

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 641
Tuesday, September 28, 1993, 1:00 p.m.
Francis F. Campbell, City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle		Gardner	Jackere, Legal
Chappelle		Moore	Parnell, Code
Doverspike, Chairman		Russell	Enforcement
S. White			
T. White			

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, September 24, 1993, at 3 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 4-0-1 (Bolzle, Chappelle, Doverspike, S. White, "aye"; no "nays"; T. White, "abstaining"; none "absent") to **APPROVE** the Minutes of September 14, 1993 (No. 638).

UNFINISHED BUSINESS

Case No. 16442

Comments and Questions:

Mr. Doverspike informed that he will abstain from hearing Case No. 16442.

Action Requested:

Special exception to permit automobile service in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located south of the SW/c of East 45th Place and South Peoria Avenue.

Presentation:

The applicant, **William Eagleton**, 100 West 5th, Suite 900, represented Tulsa Ballet Theater, owner of the subject property. He stated the Tulsa Ballet Theater has entered into a long-term contact with the Whitlock Corporation to construct and maintain an automobile retail and service facility containing 13,800 sq. ft. of floor space. He informed that 9,900 sq. ft. will be devoted to a retail business, which will sell tires, auto parts and accessories, with the surface area being used to install parts, which will consist of shock absorbers, muffler

Case No. 16442 (continued)

systems, tune-ups, alignments, tires, etc. Mr. Eagleton noted that the Whitlock Corporation will not engage in major engine repair, transmission overhauls or body work, and there will be no outside storage of materials or automobile sales on the premises. Mr. Eagleton submitted a brochure (Exhibit A-1), a plot plan (Exhibit A-2) and an operation plan (Exhibit A-3). He pointed out that there are similar facilities (Exhibit A-4) in the area along Peoria Avenue, and ask that this special exception be granted.

Comments and Questions:

Ms. White asked if all installation work will be done inside, and Mr. Eagleton answered in the affirmative.

Protestants:

Dorothy Watson, stated she is President of the Brookside Neighborhood Association and she is not here as a protestant, but is interested in the development of the property. Ms. Watson inquired as to the plans for parking, landscaping and curb cuts for the project.

Mr. Bolzle advised Ms. Watson that the plot plan reflects that there will be one new curb cut, with the existing one remaining, and Mr. Eagleton will address the parking and landscaping questions.

Mr. Eagleton informed that adequate parking will be provided for the business, and landscaping will be installed.

In response to Mr. Chappelle, Mr. Eagleton reiterated that sufficient parking will be installed, and he is not asking for any relief from the parking requirements.

Board Action:

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** a **Special exception** to permit automobile service in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17; per plot plan and operation plan; subject to no outside storage of materials, and no work performed outside the building; finding the use to be consistent with those in the area, and finding that approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lots 3 and 4, Block 1, Brookside Center Addition,
City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16449

Action Requested:

Minor Variance of the required side yard from 15' to 12' to permit an addition to an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1029 East 18th Street.

Presentation:

The applicant, **Ellis McIntosh**, 1103 East 18th Street, was represented by **Lanny McIntosh**, who informed that the property owners, **Keith and Julie Ward** are proposing an addition to an existing dwelling. He submitted a packet (Exhibit B-1) containing a summary of the project, a site plan, photographs and a site analysis. Mr. McIntosh explained that the owners of the property are proposing to construct a master bedroom and a master suite, which includes a bath and closet. He informed that the property is on a corner lot and the new addition will encroach 3' into the required side yard setback. Mr. McIntosh informed that the project was reviewed and approved by the Historic Preservation Commission in July. He pointed out that the placement of the house on the lot, and the existing pool and driveway prevent moving the addition to another location on the lot. Mr. McIntosh informed that there are two nearby properties on the same street that also encroach into the required setback, as depicted in the submitted photographs.

Comments and Questions:

Mr. Bolzle remarked that he finds a hardship demonstrated by the placement of the house on the lot and the existing pool.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Minor Variance** of the required side yard from 15' to 12' to permit an addition to an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the corner lot location, and the location of the existing dwelling and pool; finding that the approval will not cause substantial detriment to the public good, or impair the spirit, purposes or intent of the Code; on the following described property:

Lots 15 and 16, Block 2, Mapleridge Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16447

Action Requested:

Special Exception to permit a nursing home and related parking in a CS, RS-1 and RS-3 zoned district, a variance of the FAR from 50% to 72%, a variance of the required 100' of frontage, a variance of the required 25' setback from abutting R Districts, a variance to permit required parking on a lot other than the lot containing the principal use and a variance of the screening requirements - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 404.F SPECIAL EXCEPTION REQUIREMENTS** - Use Unit 5, located 2130 South 85th East Avenue.

Comments and Questions:

Mr. Gardner advised that the case map presented with this case is incorrect. He explained that the parking lot to the east of the northern extension was included in the legal description and was properly advertised, but was not included on the map. He pointed out that, if the application is approved, the addition and the parking lot should be tied together. Mr. Gardner noted that, if the new addition and the parking were on a separate lot together, the other requested variances would not be necessary.

Mr. Doverspike advised that he will abstain from hearing Case No. 16447.

Presentation:

The applicant, **Jerry Pinson**, 3638 South Maplewood, Apt. B, was represented by **Joe H. Hamra**, 7006 South Evanston, who informed that the application involves a proposed extension to an existing nursing center. He noted that the property owned by the center has three zoning classifications, and the lot on which the extension will be built is zoned CS and is adjacent to the nursing center properties to the south. It was noted that the property to the east is also zoned commercial and is currently being used as a parking lot. He pointed out that the nursing center is under the same classification as a hospital; however, all the activities are within the building and none of the patrons drive. Mr. Hamra stated that the nursing center has more than adequate parking for its needs.

Case No. 16447 (continued)

Comments and Questions:

In response to Mr. Bolzle, Mr. Gardner pointed out the applicant advertised the property owned by the nursing home and, if the map had been correct, it would have also included the parking lot.

Mr. Bolzle asked if all the new construction and the parking lot are in the CS District, and Mr. Gardner answered in the affirmative.

Mr. Gardner stated that, if the lot containing the new construction and the parking lot were tied together the variance of the 50% FAR would not be needed. He pointed out that there is 72% coverage on one piece of that property, but adding the parking lot would lower the FAR to less than 50% and he would also have parking, which is not needed for the facility to the south.

Mr. Bolzle asked Mr. Gardner if the frontage requirements on South 85th East Avenue would be met for the south 90' of those two CS lots, and he replied that the 50' of frontage on a non-arterial would be met, but not the 150'. He pointed out that the applicant could replat the property and would not need Board approval.

Protestants:

None

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-1 (Bolzle, Chappelle, S. White, T. White "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to **APPROVE** a **Special Exception** to permit a nursing home and related parking in a CS, RS-1 and RS-3 zoned district, a **variance** of the FAR from 50% to 72%, a **variance** of the required 100' of frontage, a **variance** of the required 25' setback from abutting R Districts, a **variance** to permit required parking on a lot other than the lot containing the principal use and a **variance** of the screening requirements - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **SECTION 404.F SPECIAL EXCEPTION REQUIREMENTS** - Use Unit 5; per plot plan, submitted, and subject to the execution of a tie contract; finding that the property has three zoning classifications, and the applicant could comply with all Code requirements if replatted; and finding that the nursing center is existing and the addition will not be detrimental to the neighborhood; on the following described property:

Case No. 16447 (continued)

S90' of W198' of E376' of Lot 1, O'Connor Park 2nd, and the N150' of E220' of Lot 2, O'Connor Park 2nd, and the N55' of the W132' of E352' of Lot 2, O'Connor Park 2nd, an Addition to the City and County of Tulsa, Oklahoma, according to the recorded plat thereof; and the parking lot: Beginning at the SE/c of the E178' of Lot 1, O'Connor Park 2nd Addition, a Subdivision in the NW NW of Section 13, T-19-N, R-13-E, IBM, according to the recorded plat thereof, thence W178', thence N90', thence E178', thence S to the POB; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16448

Action Requested:

Special Exception to permit Christmas tree sales in a CS zoned district on a permanent basis - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15 or 2, located northeast corner of East 25th Street South and South Memorial Drive.

Presentation:

The applicant, **Erick Dahl**, 3652 South Kropf Road, Woodburn, Oregon, was represented by **Richard Polishuk**, who spoke on behalf of the property owners that lease the space for a Christmas tree sales operation. He pointed out that they have been required to come before the Board on a year by year basis for the 30-day exception, and he asked that the sales business be approved permanently.

Comments and Questions:

In response to Mr. Doverspike, Mr. Polishuk, stated that the tree sales business will be in operation from the day after Thanksgiving until the day after Christmas, from 9:00 a.m. to 9:00 p.m.

Mr. Bolzle noted that the legal description is for the entire Looboyle center, and Mr. Polishuk, stated the actual location of the lot is toward the front of the parking lot.

Mr. Bolzle stated that areas tend to change in character, and the Board considers an application very carefully before approving a permanent sales operation of this nature.

Mr. Polishuk, informed that there will be homes across the street, but commercial businesses are to the south of the proposed use.

Mr. Doverspike stated that this area is stable, especially once they finish the development across the street. He suggested that a three year type passage on these more stable locations would be more appropriate than a permanent one.

Case No. 16448 (continued)

Ms. White advised that she would be amenable to a five-year approval at this location.

There was discussion concerning the required setback for the sales operation, and Mr. Jackere advised that the business should be no closer to the centerline of Memorial Drive than the nearest building wall of existing buildings in the center.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Special Exception to permit Christmas tree sales in a CS zoned district for **five years only - SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15 or 2; subject to days of operation being from the day after Thanksgiving to the day after Christmas; and subject to the business being in compliance with all building setback requirements; finding the temporary use to be compatible with the surrounding area; on the following described property:

South 200' of west 150', Lot 1, Block 1, Tri Center Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16500

Action Requested:

Special Exception to permit an existing public school in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 1132 North Vandalia.

Presentation:

The applicant, **Tulsa Public Schools**, 1555 North 77th East Avenue, was not represented. A plot plan (Exhibit D-1) had been previously submitted.

Comments and Questions:

Mr. Bolzle noted that from reading the application this appeared to be the same as the applications that the Tulsa Schools have made when they were putting temporary structures on an existing school site that has been there for many years, but has not gone through the zoning process.

Ms. White and Mr. Doverspike agreed that the Board has sufficient information to make a judgment on the case.

Case No. 16500 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit an existing public school in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; per plan submitted; finding that the school has been at this location for many years and has proved to be compatible with the area; on the following described property:

SW/4, SE/4, NE/4, Section 33, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16501

Action Requested:

Variance of the required setback from the centerline of West 41st Street from 50' to 35' to permit a sign - **SECTION 1221.C.6. General Use Conditions for Business Signs** - Use Unit 17, located 2422 West 41st Street.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, was not represented.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, T. White "aye"; no "nays"; no "abstentions"; S. White, "absent") to **CONTINUE** Case No. 16501 to October 12, 1993.

Case No. 16502

Action Requested:

Special Exception to permit a reduction of the required front yard from 35' to 30' - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2624 East 33rd Street.

Presentation:

The applicant, **Myrna Seale**, 1956 East 35th Street, submitted a plot plan (Exhibit E-1) and requested permission to extend the front porch 5' over the required setback line. The house has been moved forward to avoid destroying a large 26" tree in their backyard.

Case No. 16502 (continued)

Protestants:

None.

Comments and Questions:

Mr. Bolzle stated that this is a dead end street that is being redeveloped. He noted that this was originally a street of mostly ranch style one-story homes on large tracts, but it is now being resubdivided and new homes are being built. He pointed out that the major portion of the house is behind the setback line and only one corner encroaches.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a reduction of the required front yard from 35' to 30' - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the house was moved forward to preserve a large tree; and finding that only one corner of the dwelling will extend into the required setback; on the following described property:

A tract of land in the NE/4 of the NW/4 of Section 20, T-19-N, R-13-E, of the IBM, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, and being more particularly described as follows to-wit: Beginning at a point 1320' south and 686.4' east of the NW/c of said NE/4 of the NW/4, thence N 161', thence E 150.6', thence S 161', thence W 105.6' to the POB, subject to a roadway easement over the N25' thereof; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16503

Action Requested:

Special Exception to permit a water treatment plant in an RS-3 and AG zoned district - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located 3710 Mohawk Boulevard.

Presentation:

The applicant, **Clayton Edwards**, 2317 South Jackson, stated that he is the staff engineer with the City of Tulsa Public Works Department. Mr. Edwards explained there is an existing water treatment plant at the above stated location, and the City is under the process of designing a new plant immediately south of the existing one. He informed that it was discovered during the building permit process that the land was not zoned for a treatment plant. Mr. Edwards submitted an architectural sketch (Exhibit F-1) of the proposed facility.

Comments and Questions:

Mr. Doverspike asked what is located southwest of the proposed location of the treatment plant, and the applicant stated that there is just undeveloped acreage further south of the tract, which was previously an amusement park. Mr. Edwards stated that the proposed animal shelter will be located to the southwest.

Protestants:

Ms. Deanna Harris, 3831 North New Haven, stated that the surrounding neighborhood has been waiting for the City of Tulsa to install sewers and water disposal for more than 30 years. Ms. Harris noted that she grew up in this neighborhood and African-Americans, who wanted above average housing, developed their own neighborhood in this area. She pointed out that there have been periodic and persistent applications by various agencies to negatively change the character of their neighborhood. She added there is no drainage in the area and one neighbor has a lake in front of their house every time it rains. Ms. Harris noted that light industry has moved into their neighborhood, and there is a plant on 36th Street that makes noise continuously. She asked the Board to deny the application.

Lloyd H. Williams, Jr., 3646 North New Haven, stated that the neighborhood has not received any type of design plan for the proposed construction. He pointed out that there are over 36 homes in this neighborhood and most of them are on one-acre tracts. Mr. Williams stated that the City is neglectful in taking care of its responsibilities on the north side, and the neighborhood is opposed to this type of construction being planned without their input.

Violet Patterson, 3626 North New Haven, stated that the property next door to her home would not pass the perk test, and she is concerned that this could be a health hazard.

Case No. 16503 (continued)

John Clayborn, 3747 East 36th Street North, informed that there are very nice homes in the neighborhood. He pointed out that they are not protesting the construction of a water plant, but are opposed to locating it near some existing homes. It was noted that the water plant is going to be almost against one residence.

Naomi Clayborn, 3747 East 36th Street North, stated that she is opposed to the plant, and pointed out that the neighborhood was not informed when the animal shelter was proposed. She added that her home is in the noise zone of this plant that was previously mentioned, and that their telephone rings and the noise is constant. She stated that the neighborhood has not been informed as to the size of the project or how many employees will be at this location.

Applicant's Rebuttal:

Mr. Edwards informed that the existing plant was constructed in 1920, upgraded in 1955 and does not meet Federal treatment regulations at this time. He stated that the plant will be upgraded and some of the old buildings will be incorporated into the new plant. Mr. Edwards informed that landscaping will be installed on Mohawk Boulevard. He pointed out that the plans are preliminary.

Additional Comments:

Ms. White asked the applicant if there have been informational meetings with the neighborhood, and Mr. Edwards stated that there have been no meetings, but they will be informed when the plans are finalized.

In response to Mr. Doverspike, the applicant explained that the issue is before the Board at this time because wiring is needed immediately for sludge dewatering facilities, which are to be constructed to the east of the existing plant.

Mr. Chappelle asked if the existing plant can be renovated to prevent farther encroachment into the residential neighborhood, and Mr. Edwards stated that the depth of the filters will prevent the use of the existing facility. He added that the treatment design is outdated.

Mr. Doverspike asked if the completed sludge dewatering plans can be reviewed with the neighborhood, and Mr. Edwards answered in the affirmative.

Ms. White stated that she is not amenable to taking action on this proposal until more information is available and the neighborhood concerns are addressed.

Case No. 16503 (continued)

Mr. White asked if the treatment facility permeates the ground area, and the applicant stated that it does not.

Mr. Chappelle stated that he is concerned with the proximity of the treatment operation to the residential neighborhood, and plans are not available to make that determination.

It was the consensus of the Board that the sludge dewatering plans are complete and can be discussed with the neighborhood; however, the treatment plant should be addressed at a future date when detail plans are prepared and available for review.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** the portion of the application concerning a sludge dewatering facility to October 12, 1993 to allow the City sufficient time to provide the neighborhood with information concerning all aspects of the proposal; and to **WITHDRAW** a **Special Exception** to permit an expansion of the water treatment plant in an RS-3 and AG zoned district.

Case No. 16504

Action Requested:

Variance of the required setback from the centerline of South Memorial Drive from 60' to 46.5' to permit the alteration of an existing ground sign - **SECTION 1221.C.6. General Requirements for Business Signs** - Use Unit 12, located 2701 South Memorial Drive.

Presentation:

The applicant, **Custom Design Company**, 415 East 14th Street, Stillwater, Oklahoma, was represented by James Irwin, who requested permission to modernize an existing sign (Exhibit G-2). He informed that the sign was in place prior to the widening of Memorial Drive and, if the sign location is moved to comply with the current required setback, it will be in the traffic flow area. Mr. Irwin requested permission to replace the top portion of the sign, which will be smaller and 1½' farther from the street than the existing sign. Photographs (Exhibit G-1) were submitted.

Case No. 16504 (continued)

Protestants:

Keith Smith, Transportation Design, City of Tulsa, stated that the sign encroaches into the City right-of-way, and recommended that any approval be made subject to a removal contract.

Mr. Jackere asked if there is a sight concern, and Mr. Smith stated that this could be a concern; however, there is not a representative from Traffic Engineering present to address the issue.

Applicant's Rebuttal:

J. T. Pass, 2272 East 38th Street, stated that the face of the existing sign can be changed out by right; however, the display surface area of the sign is actually being reduced and it will be farther from the street than the old sign.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of South Memorial Drive from 60' to 46.5' to permit the alteration of an existing ground sign - **SECTION 1221.C.6. General Requirements for Business Signs** - Use Unit 12; per plan submitted; subject to a removal contract and Traffic Engineering approval; finding that the replacement sign will not extend as close to the street as the one previously in place; on the following described property:

N 150' of west 150' of Lot 1, Block 2, Tri-Center, City of Tulsa Tulsa County, Oklahoma.

Case No. 16505

Action Requested:

Variance of the number of required parking spaces - **SECTION 1212.a.D. Off-Street Parking and Loading Requirements** - Use Unit 12a, located 3415 South Peoria Avenue.

Presentation:

The applicant, **T. Michael Smith**, 3042 South Boston Place, stated that he is proposing to begin operation of a billiard center, which is different from a pool hall in that beer is served in the center.

Case No. 16505 (continued)

Comments and Questions:

Mr. Bolzle asked the applicant if he owns or has a lease on the subject property, and Mr. Smith replied that he is negotiating a lease. Based on Mr. Smith's reply, Mr. Bolzle stated that the Board does not have the authority to hear the application.

Mr. Jackere asked Mr. Smith if the owner has authorized him to file the application, and he replied that the owner is fully aware that the application has been filed.

Mr. Bolzle suggested that the case be continued until the applicant has an equitable interest in the property.

Mr. Smith stated that he is agreeable with the continuance, because he is proposing to meet with the neighbors to discuss the business operation.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16505 to October 12, 1993 to allow sufficient time for the applicant to meet with the neighborhood and obtain an equitable interest in the property.

Case No. 16506

Action Requested:

Variance of the required livability space from 5000 sq ft to 4100 sq ft - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2717 East 23rd Street.

Presentation:

The applicant, **Michael Sposato**, 2605 East 23rd Street, informed that he is proposing to build a home on the subject property. He informed that the front porch will extend beyond the building setback line.

Comments and Questions:

Mr. Bolzle informed that the request for the setback for the porch does not appear on the case report.

Ms. Russell stated that Staff did not receive the plans early enough to advertise for the setback relief, and that portion of the application should be continued to the next scheduled meeting.

It was the consensus of the Board that the entire application should be continued to October 12, 1993.

Case No. 16506 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16506 to October 12, 1993.

Case No. 16508

Action Requested:

Variance of the maximum height for a fence in a required front yard - **SECTION 210. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS** - Use Unit 6, located 3915 South Detroit.

Presentation:

The applicant, **Beryl Pope**, 3915 South Detroit, was represented by Deborah Gootschalk, who requested permission to retain a screening fence that was previously constructed on the property. She explained that her clients inquired as to City Code requirements for constructing a privacy fence on the front portion of the property, and were told to taper the fence to 2' by the curb and end the retaining wall 3½' from the curb. It was noted that the fence was then constructed. A plat of survey and photographs (Exhibit H-1) were submitted. She pointed out that there are similar fences in the neighborhood. She informed that her clients found it necessary to construct the fence because of noise from the swimming pool and a parking area that was constructed close to the subject property. She added that a sprinkler system in the yard next door causes a water problem for her clients.

Comments and Questions:

Mr. Doverspike inquired as to the name of the City employee that advised that the fence could be constructed, and Ms. Pope replied that she was not given a name.

Protestants:

Harold Morris, 3911 South Detroit, stated that he filed a complaint regarding the fence, because it is a clear violation of the City Code. He stated that, although he is not opposed to the fence, the plastic covering placed on the fence is very unsightly. Mr. Morris suggested that the fence could be classified as a "spite fence".

Case No. 16508 (continued)

Applicant's Rebuttal:

Ms. Gootschalk informed that the plastic will be removed and the fence will be covered with a type of water resistant siding that will match the color of the existing fence. She pointed out that her clients have spent a large sum of money to construct the fence, and asked that it be permitted to remain.

Additional Comments:

Ms. Russell informed that the request was advertised as a variance, but is actually a special exception and does not require a hardship finding.

Mr. Jackere advised that the Board should determine if this particular fence, according to the facts presented, is injurious to the neighborhood, because the facts concerning other fence height requests may be different from those in this application.

Mr. Gardner noted that each fence that requires Board approval should be considered separately, because there are numerous types of fences constructed from various materials, and not all are screening fences.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-1-0 (Bolzle, Doverspike, S. White, T. White "aye"; Chappelle, "nay"; no "abstentions"; none "absent") to **DENY** a **Variance** of the maximum height for a fence in a required front yard - **SECTION 210. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS** - Use Unit 6; finding that the fence blocks light, air and sight, and is injurious to the neighborhood; on the following described property:

Lot 19, Block 3, Michael Jane Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16509

Action Requested:

Special exception to permit a music store in an IL zoned district, variance of the building setback from abutting R Districts from 75' to 15', and a variance of the setback from the centerline of East 61st Street from 100' to 85' and 11' to permit existing encroachments - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** and **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 14, located northeast of East 61st Street and South 99th East Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, submitted a plot plan (Exhibit J-1) and stated that he is representing Roy and Candy's Music Store, which will relocate to the subject property. He noted that the Comprehensive Plan designates the entire area for future industrial use; however, there are several residential dwellings to the north of the property in question. Mr. Johnsen pointed out that the land to the east and west is zoned industrial. He explained that a single-family dwelling is existing on the subject property and a new building will be constructed along the 61st Street frontage. Mr. Johnsen noted that a music store would be more compatible with the residential area to the north than an industrial use and many other commercial uses. He pointed out that an industrial use would require a 75' setback from the north boundary, which would prohibit any type of construction on the 90' lot. He informed that the retail space will extend east from the existing dwelling, with access for this retail use being on 61st Street and access to the dwelling, which has been used as an office, on 99th East Avenue. Development Standards (Exhibit J-2) were submitted. Mr. Johnsen stated that a parking variance may be required for the retail use, and asked the Board to approve the application as presented, and continue the remainder of the application to October 12, 1993 to determine if parking relief is needed.

Comments and Questions:

Mr. Doverspike inquired as to the Use Unit 11 uses noted in the Development Standards, and he replied that he thought it appropriate that the existing dwelling be used as an office or dwelling.

Protestants:

Keith Smith, City of Tulsa Transportation Engineering, stated that he is concerned that a clear 50' right-of-way be maintained on 61st Street and 25' from the centerline of South 99th East Avenue. He requested that any approval of the application be subject to Traffic Engineering review.

Case No. 16509 (continued)

Karen Hicks, 5945 South 99th East Avenue, informed that she lives on property adjacent to the house located on the subject tract. She stated that the neighborhood is opposed to the variance of the building setback from 75' to 15', and pointed out that the 90' lot cannot accommodate an IL use without excessive variances. Ms. Hicks stated that she is concerned that the music store could move to another location, and a business that creates noise could be in operation 15' from her property line. She added that the house and the proposed building will cover the entire lot line and block all air and light from her back yard.

Comments and Questions:

Mr. Gardner pointed out that CS zoning would permit a 24-hour-a-day operation to be located within 10' of the boundary lines, and this could be detrimental to the residential neighborhood.

In response to Mr. Bolzle, Mr. Jackere stated that uses on the lot can be limited by the Board.

Applicant's Rebuttal:

Mr. Johnsen stated that the Board can impose reasonable conditions on the use of the property, and the music store is an ideal use for the property, and will be compatible with the residential development to the north.

Mr. Johnsen stated that he is amenable to the use being limited to a music store only for the new building.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, T. White "aye"; no "nays"; no "abstentions"; S. White, "absent") to **APPROVE** a **Special Exception** to permit a music store in an IL zoned district, **variance** of the building setback from abutting R Districts from 75' to 15', and a **variance** of the setback from the centerline of East 61st street from 100' to 85' and 61' to permit existing encroachments; and to **CONTINUE** the balance of the application to October 12, 1993 - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** and **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 14; per plan submitted; subject to the music store only, excluding all other uses permitted by right in an IL District; subject to merchandise loading and unloading being to and from the front of the building containing the retail use; subject to no outside display, outside storage or temporary uses; and subject to Traffic Engineering approval; finding the music store to be compatible with the area; and finding a hardship

Case No. 16509 (continued)

demonstrated by the narrow shape of the lot and a 75' setback from a residential area, which would prevent any type of development on the property; on the following described property:

Lot 7, Block 2, Guy Cook Subdivision, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:25 p.m.

Date Approved

October 12, 1993


Chairman

