

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 643
Tuesday, October 26, 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 Doverspike, Chairman S. White T. White	Chappelle	Gardner Moore Russell	Jackere, Legal Parnell, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, October 22, 1993, at 2:24 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:

The minutes for October 12, 1993 (No. 642) were not made available in advance of this meeting and, therefore, could not be approved.

UNFINISHED BUSINESS

Case No. 16506

Action Requested:

Variance of the required livability space from 5000 sq ft to 4225 sq ft, and a variance of the maximum 20% rear yard coverage for a detached accessory building - **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, submitted a revised plan (Exhibit A-1) for a proposed dwelling.

Comments and Questions:

Mr. Doverspike noted that the Board had previously requested that the plan be revised to comply with the required front yard setback.

Mr. Bolzle asked the applicant if the footprint of the house and garage is identical to the previously submitted plan, and he answered in the affirmative. He informed that the garage has been moved to within 1" of the utility easement and the house has been moved back to comply with the front setback requirement.

Case No. 16506 (continued)

Protestants:

None.

Board Action:

On MOTION of BOLZLE, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required livability space from 5000 sq ft to 4225 sq ft, and a **Variance** of the maximum 20% rear yard coverage for a detached accessory building - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6; per plan submitted; finding that the area was developed prior to the current livability space requirements, and approval of the request will not cause substantial detriment to the public good, or violate the spirit, purposes or intent of the Code; on the following described property:**

Lot 44, Block 2, Harter's IV Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16450

Action Requested:

Appeal of the decision of the administrative official that equipment being used is not in accordance with the approval (Case No. 10722) to operate a trade school (workshop for handicapped) - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL - Use Unit 15, located 222 South Memorial Drive.**

Comments and Questions:

Mr. Doverspike informed that all Board members have toured the facility since the previous meeting.

Protestants:

Vickie Potts, 219 South 80th East Avenue, noted that the day after the Board toured the building the air handling equipment started to clatter. She stated that the foreman advised her that the saw did not have a screen in place, which allowed pieces of wood to be drawn into the equipment. Ms. Potts suggested that the ideal solution to the problem would be to move the air handler to the front of the building.

Case No. 16450 (continued)

In response to Ms. Potts presentation, **Daniel Collins** stated that he is the workshop manager for Sertoma, and explained that wood had collected in the piping and was causing a noise problem outside the building. Mr. Collins informed that they stopped the operation and cleaned out the pipe. He advised that a screen is in place inside the sawdust pipe to prevent large chunks of wood from entering the pipe with the sawdust.

Additional Comments:

In response to Mr. Bolzle, Mr. Jackere advised that it is the Board's function to determine what equipment was previously approved for use at Sertoma.

Mr. Bolzle inquired as to Sertoma's right to return to the Board for a variance if the decision of the administrative official is reversed, and Mr. Jackere advised that they may have a right to request some affirmative ruling.

Mr. Doverspike asked if additional conditions of operation can be imposed if the Board determines that the equipment currently being used is within the scope of the Board's original determination, and Mr. Jackere advised that he would not consider adding conditions of approval to be appropriate.

There was discussion concerning the minutes from the previous meeting.

Presentation:

The applicant, **Sertoma**, 222 South Memorial Drive, was represented by **Roy Johnsen**, 201 West 5th Street, who advised that the Board can reverse the administrative official's decision, based on finding of facts presently existing. He pointed out that the decision can be reversed based on a finding of daylight operation, insulation being in place on the dust collection system and a kill switch being located on the west door to shut down the saw when the door is opened. Mr. Johnsen noted that the table saw has never been found inappropriate when Sertoma has been before the Board on other occasions.

Mr. Jackere advised that he is not opposed to Mr. Johnsen's assessment of the matter, because the initial approval did not state specific conditions.

Mr. Bolzle stated that the approval did specifically address the use of heavy equipment.

Case No. 16450 (continued)

Mr. Johnsen advised that the only mention of equipment in the 1979 case was in the applicant's comments and the Board's approval action did not contain any reference to equipment or conditions on its use.

Mr. Doverspike concluded that the Board can either uphold the decision of the administrative official with the understanding that the applicant could return for additional relief for needed uses, or reverse the decision of the official and determine that the current uses, as are presently being operated, are in accordance with the initial approval to operate a trade school (workshop for the mentally impaired).

Mr. Bolzle remarked that the Board would not have considered the saw an issue unless it had been specifically noted in a previous application. He stated that there were numerous neighborhood complaints concerning the noise of the saw, and pointed out that denial of the appeal would permit the Board to consider the impact of each individual piece of equipment.

Mr. Jackere informed that the courts in this State hold a property owners right to use his property with the highest regard. He pointed out that, if zoning laws are vague, the courts will probably rule in favor of the property owner. Mr. Jackere advised that the previous approval of the use contains the operating rules for Sertoma; however, if there is any unclarity, it must be resolved in favor of Sertoma. He added that Sertoma's operation is not at liberty to become a nuisance to the neighborhood.

Mr. Doverspike suggested that the current operation could be found in harmony with the spirit and intent of the Code, not inconsistent with the original BOA approval, if the motion stated that Sertoma must continue to operate as it presently operates the shim manufacturing business (use of one forklift, one 5 hp table saw, a conveyor belt, dust collector equipment, insulation, kill switch on the door, etc.)

Mr. White informed that he is also concerned with the air quality in the area, and stated that all other doors should be closed when the west door is open. He pointed out that this would prevent the forcing of dust out the west door into the residential area.

Ms. White stated that the use seems to have changed into a more intense operation over the years.

Applicant's Rebuttal:

Mr. Johnsen stated that conditions were not imposed when the trade school was approved in 1979, and added that he would not consider a 5 hp saw to be heavy equipment. He informed that one person operates the saw and 20 impaired people may work on the conveyer belt. Mr. Johnsen requested that the use be permitted to operate as it exists at this time.

Additional Comments:

Ms. White stated that the proposed standards of operation would be very difficult to enforce.

Mr. Gardner advised that the Board did not intend to permit an operation that generated a great deal of noise; therefore, the mulching machine was previously denied and the car wash was approved. He pointed out that the administrative official is not in the best position to make the final decision as to whether or not the saw would be an appropriate use, since the minutes of the previous approval were not specific concerning the type of equipment permitted. Mr. Gardner stated that, if given the Board minutes, he would have made the same decision as the Code Enforcement official.

Mr. Johnsen stated that Ms. Parnell responds to a complaint and, unless the subject matter is entirely clear, she turns to the Board to settle the dispute.

Mr. Bolzle stated that he is convinced that it will be advantageous to the neighborhood to approve the use as it exists today, based on specific findings of the important aspects of the operation.

Protestants:

Evelyn Wallace, 325 South 80th East Avenue, stated that she was one of the people that visited Sertoma during the recent noise problem. She noted that the sound barriers on the south side of the saw had been removed, and suggested that the barriers be made permanent.

Arthur Barber, 8017 East 2nd Street, stated that approval of the saw was not included in the 1979 approval.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **REVERSE** the **Decision** of the administrative official; and **APPROVE** the **Appeal** and determine that equipment being used, in the particular manner now existing, is in accordance with the previous Board approval to operate a trade school -

Case No. 16450 (continued)

workshop for the mentally impaired - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 15; the Board making such ruling upon the following findings of fact existing as of the date of inspection by the Board, which had been further stipulated by the applicant:

1. Hours of operation limited to 8 a.m. to 4 p.m., Monday through Friday.
2. The use of equipment in question (5 hp table saw, conveyor belt, dust collector system) is limited to manufacturing wood shims from wood shingles or similar wood materials.
3. The table saw and conveyor belt are located approximately 15' east of the west loading door.
4. The table saw is buffered on the west and south by portable partitions or wood planks, which provide an additional sound buffer.
5. The west loading door has been modified to include sound proofing material and is connected by an automatic kill switch to the table saw, which renders the saw inoperable when the door is opened. Other doors to the building remain closed when the west loading door is opened.
6. The table saw is only operated when the west loading door is closed.
7. The forklift is operated outside the building and along the west property line no more frequently than twice daily, Monday through Friday, and not longer than 30 minutes per use (maximum of one hour per day).
8. The dust collector equipment is maintained at and along the west wall, with the portion of the unit located outside the building surrounded by sound retardant materials (plywood and one inch Styrofoam).

It is noted by the Board that Sertoma can continue to operate an automobile detailing operation, as currently found on the property, but shall not operate a cedar mulch manufacturing operation at this site, but may sell cedar mulch products at the site, and may continue to use the forklift inside the building; the actions herein taken are applicable to the following described property:

Beginning 874.75' north SE/c, SE/4, NE/4, thence west 357', north 120.25', east 357', south 120.25' POB and tract beginning 874.75' SE/c NE/4, thence west 357', south 70', east 357', north 70' POB less east 60' for street, Section 2, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16455

Action Requested:

Variance of the all weather surface requirement for off-street parking - **SECTION 1303.D. Standards for Off-Street Parking and Loading Areas**, located northeast corner of East 36th Street North and North 129th East Avenue.

Presentation:

The applicant, **Gale Plummer**, 11014 East 51st Street, was not present.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **CONTINUE** Case No. 16455 to November 9, 1993.

Case No. 16462

Action Requested:

Special Exception to permit duplex dwellings in a CS zoned district, and a variance of the required setback from abutting R Districts from 10' to 5' - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS and SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 7, located NW/c and SW/c of East 35th Street and South 129th East Avenue.

Presentation:

The applicant, **Jim Schwerts**, 13539 East 38th Place, submitted photographs (Exhibit M-1) and a plot plan (Exhibit M-2), and explained that he is proposing to construct duplexes on the CS property in question. He pointed out that the use would be in the best interest of the neighborhood, because commercial uses could be constructed on the property by right.

Comments and Questions:

In response to Mr. Bolzle's question concerning setbacks, the applicant stated that the garages are approximately 5' from the property lines, with the living area being approximately 9'. Mr. Schwerts pointed out that there will be approximately 18' between the living areas. He stated that the proposed structures will be all brick, while the other homes in the area have approximately 25% brick.

Case No. 16462 (continued)

Mr. Doverspike asked if the duplexes will be similar in appearance to the photographs (Exhibit M-1), and the applicant answered in the affirmative.

Protestants:

Cathy Teate, 13539 East 38th Place, stated that she is concerned that the duplexes will have a negative impact on property values in the neighborhood.

Additional Comments:

In response to Ms. White, Ms. Teate stated that she was not aware of the commercial zoning classification on the subject property. Ms. White pointed out that a convenience store could be permitted on the lots by right.

Mr. Gardner noted that this is a classic example of commercial spot zoning, and the quality of the proposed residential construction on the property will be an important issue for the neighborhood. He advised that the Board can require that the duplexes be of masonry construction.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit duplex dwellings in a CS zoned district, and a **variance** of the required setback from abutting R Districts from 10' to 5' - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS and SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 7; per plan submitted; subject to all construction being 100% masonry (brick), as depicted in the photographs (Exhibit M-1); finding the use to be compatible with the abutting residential development, and less intense than is permitted by right on the CS zoned lots; on the following described property:

Lot 1, Block 1 and Lot 1, Block 2, Briarglen East Center, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16463

Action Requested:

Special Exception to permit expansion of the existing juvenile detention center - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 2, located 315 South Gilcrease Museum Road.

Presentation:

The applicant, **City of Tulsa**, 200 Civic Center, Room 405, was represented by **William Savage**, who submitted a site plan (Exhibit B-1) and requested permission to add a 23,000 sq ft addition to the existing juvenile detention center. He informed that the number of beds will be increased to 55 (16,000 sq ft addition), and 7500 sq ft will be added to the courtroom area.

Comments and Questions:

Mr. Doverspike asked if the parking area will change, and Mr. Savage replied that the proposed construction encroached into the current parking area, and additional parking is proposed to the north.

Mr. Bolzle inquired as to the use to the east, and Mr. Savage stated that there is an open area in that direction.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit expansion of the existing juvenile detention center - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 2; per plan submitted; finding that the use is existing, and the expansion of the facility will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Beginning 412.85' south and 25' east of the NW/c of the SE/4, thence southeasterly 654.4' thence south 346' thence northwesterly 654.4', thence north 346' to the POB, Section 3, T-19-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16464

Action Requested:

Special Exception to permit Use Unit 19 (Halloween Spook House) on the subject tract as an accessory use to church use.

Presentation:

The applicant, **Bill Scheer**, 4500 South Garnett, Suite 900, was not present.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **DENY** Case No. 16464, due to the fact that the applicant failed to appear before the Board.

Case No. 16465

Action Requested:

Variance of the required setback from the centerline of Southwest Boulevard from 50' to 33' to permit two directional ground signs - **SECTION 1221.C.6. General Use Conditions for Business Signs** - Use Unit 21, located 2420 Southwest Boulevard.

Presentation:

The applicant, **Poe and Associates**, was represented by **Jerry Talley**, 10820 East 45th Street. Mr. Talley stated that the application concerns two small signs (Exhibit C- 1) for the Community Bank, which are located near the exit from the bank property to Southwest Boulevard. He explained that the 18" by 18" (1 amp) signs will be 66" in height and one sign will advise customers that they are about to enter the exit drive, with the second sign advising customers to proceed with caution.

Comments and Questions:

Mr. Bolzle voiced a concern that the sign could interfere with the traffic line of sight.

Mr. Gardner advised that the signs will require City Council approval if they are located in the City right-of-way.

Protestants:

None.

Case No. 16465 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of Southwest Boulevard from 50' to 33' to permit two directional ground signs - **SECTION 1221.C.6. General Use Conditions for Business Signs** - Use Unit 21; per plan submitted (two 18" by 18", 66" high): subject to Traffic Engineering approval; and subject to City Council approval, if needed; finding that the directional signs will not be detrimental to the area; on the following described property:

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

Case No. 16466

Action Requested:

Variance of the required side yard from 10' to 6' to permit an addition to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2173 South Owasso.

Presentation:

The applicant, **Robert Johnson**, 2121 South Columbia, #710, submitted a plot plan (Exhibit D-1) for a proposed addition to an existing dwelling.

Comments and Questions:

Mr. Bolzle asked if any part of the new addition will encroach farther into the side yard setback than the existing dwelling, and the applicant stated that it aligns with the existing building wall.

Protestants: None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required side yard from 10' to 6' to permit an addition to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per revised plan submitted; finding that the addition will align with the existing building wall, and will not encroach farther into the setback; on the following described property:

North 80' of Lot 5, Block 16, Sunset Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16467

Action Requested:

Variance of the required livability space from 4000 sq ft to 2878 sq ft - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1708 South Newport.

Presentation:

The applicant, **Robert Day**, 1708 South Newport, submitted a plot plan (Exhibit E-1) and informed that an addition to square an exiting dwelling is proposed (Exhibit E-2). He stated that the new construction will add approximately 200 sq ft of floor space to the house. Mr. Day explained that the area was developed prior to the livability space requirement and has never complied with that Code requirement. Photographs (Exhibit E-3) were submitted.

Comments and Questions:

Mr. Doverspike asked if the construction materials will be the same as the existing structure, and the applicant answered in the affirmative.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required livability space from 4000 sq ft to 2878 sq ft - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that development occurred in the area prior to the livability space requirement, and the houses in the neighborhood are not in compliance with the Code in that regard; 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:

Lot 2, Block 20, Amended Morningside Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16468

Action Requested:

Variance of the conditions of approval to permit Java Dave's Coffee Shop and Deli with the addition of 13 parking spaces.

Presentation:

The applicant, **Java Dave's**, was represented by **Wayne Alberty**, 201 West 5th Street, Suite 120, who stated that the Board previously limited the Lincoln Plaza development to two restaurants. He explained that, at the time of the previous Board action, Java Dave's had already signed a lease for 900 sq ft of floor space; however, they now have plans to expand the operation to include a seating area (1880 sq ft total). Mr. Alberty informed that the business is classified under Use Unit 12, which has the same parking requirement as a restaurant. He noted that the previous variance was approved to permit 170 parking spaces. Mr. Alberty stated that all City departments have recommended approval for the vacation of Quaker Avenue, and the City Council will hear the request in approximately two weeks. He remarked that the vacation of the street will provide an additional 13 parking spaces on the west half of the vacated street, which is more than adequate to satisfy Java Dave's parking requirement. Mr. Alberty stated that there is a possibility that additional parking will also be available on the east side of the street.

Comments and Questions:

Mr. Doverspike asked if the expansion of the business only consists of adding tables, and Mr. Alberty replied that the addition of the tables is the primary change in the operation.

Mr. Gardner advised that Food Specialties (bakery, confections, food specialty store, grocery, health food store and ice cream parlor) are classified under Use Unit 14 in the Zoning Code; however, a delicatessen is listed under Use Unit 12 - Eating Establishments.

Mr. Bolzle informed that the minutes from the previous Board meeting state that he asked Mr. Clark if there is a proposal to close Quaker Avenue, and he replied that there is such a proposal, which could add 10 to 12 parking spaces, but additional structures are not proposed.

Mr. Jackere noted that the proposal to vacate Quaker Avenue is being considered by City departments, and advised that approval of the request should not be made based on parking spaces being available on Quaker Avenue.

Case No. 16468 (continued)

Mr. Alberty stated that he is agreeable to the approval of the business being subject to the availability of parking on the vacated street.

Mr. Bolzle inquired as to the hours of operation for the deli portion of the business, and Mr. Alberty stated that the entire business will be open from 7 a.m. to 11 p.m.; however, the deli business will be primarily at lunch.

Protestants:

None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the conditions of approval to permit Java Dave's Coffee Shop and Deli with the addition of 13 parking spaces; per plan submitted; subject to Quaker Avenue being vacated by the City Council in order to provide the additional parking; finding the use (specialty type restaurant) to be compatible with the area, and in harmony with the spirit and intent of the Code; on the following described property:

Lots 1 - 16, Block 8 and vacated alley lying within said Block 8, Orcutt Addition and vacated right-of-way for Quaker Avenue between 15th and 16th Streets, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16469

Action Requested:

Variance of the required setback from the centerline of South Harvard from 85' to 82' - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 3412 East 67th Street.

Presentation:

The applicant, **Lance Larey**, 3412 East 67th Street, informed that a two-car carport is currently in place and requested permission to increase the size of the existing structure to accommodate a third vehicle. He pointed out that the lot is irregular in shape and the extreme southwest corner of the carport will extend into the required setback on Harvard Avenue. Mr. Larey submitted a plot plan (Exhibit F-1), and noted that there is no access to his property from Harvard. Photographs (Exhibit F-2) were submitted.

Protestants:

None.

Case No. 16469 (continued)

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of South Harvard from 85' to 82' - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that there are similar encroachments in the neighborhood and approval of the request will not cause substantial detriment to the public good, or violate the spirit and intent of the Code; and finding a hardship demonstrated by the curvature of the street, the placement of the existing dwelling and the irregular shape of the lot; on the following described property:

Lot 17, Block 1, Cedar Creek Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16470

Action Requested:

Special Exception to permit a private school and day care in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 1730 South Memorial Drive.

Presentation:

The applicant, **Happy Hands Education Center**, was represented by **Al Proo**, 20142 East 3rd Street, who informed that purchase of the property in question is contingent upon the Board's decision. He informed that a day care center and pre-school for deaf children are proposed (Exhibit B-1). Mr. Proo stated that the initial enrollment will be 23; however, the school will be expanded to the 12th grade (approximately 75 total) within the next five to eight years.

Comments and Questions:

Mr. Bolzle noted that 79th East Avenue is a narrow street, and Mr. Proo stated that the driveway on the property extends from Memorial Drive to 79th East Avenue. Mr. Bolzle asked if it is important to the operation of the school that the driveway to both streets remain open, and Mr. Proo answered in the affirmative. He further noted that vehicles providing transportation for the students can enter on Memorial and exit on 79th East Avenue. Mr. Bolzle stated that he would not be supportive of channeling traffic to 79th East Avenue at this time.

Case No. 16470 (continued)

In response to Mr. Bolzle, Mr. Proo stated that the existing structure will be renovated and the three-car garage will be utilized for the school.

Mr. Doverspike inquired as to the hours of operation, and Mr. Proo stated that the day care will operate from 7 a.m. to 6 p.m., Monday through Friday.

Ms. White asked if the long range plan will include additional school activities, and Mr. Proo stated that the school will require more land at that time, and may purchase adjacent property or relocate.

Ms. White stated that she is not supportive of ingress or egress on 79th East Avenue.

In response to Mr. White, Mr. Proo informed that children will not arrive on a City bus.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a private school and day care in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; per plan, with no ingress or egress on 79th East Avenue; subject to days and hours of operation being Monday through Friday, 7 a.m. to 6 p.m.; finding the use, per conditions, to be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

N/2, S/2, NE/4, SE/4, SE/4, less 50' on east and 30' on west for street, Section 11, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16471

Action Requested:

Variance of the required side yard from 10' to 5', variance of the required rear yard from 25' to 15' and a variance of the required livability space - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2205 South Troost.

Presentation:

The applicant, **Dean Christopoulos**, 7020 South Yale, #270, was represented by **Vern L. Suess**, who submitted a plot plan (Exhibit H-1) for a proposed dwelling. He explained that the lot is located in an older subdivision, is irregular in shape and does not comply with current RS-2 requirements.

Comments and Questions:

In response to Mr. Doverspike, Mr. Suess stated that the livability space will be 55% of the total lot area, and both side yard setbacks will be 5'.

Protestants:

Charles Surber, 2205 South Troost, informed that he lives to the south of the lot in question, and pointed out that the proposed dwelling will be 10' from his home, and is too large for the lot.

Barton Speegle, 2202 South Utica, stated that he owns the lot to the north of the subject property, and the location of the structure 5' from the fence line would have a negative impact on his property value. He pointed out that the proposed dwelling is larger than the homes in the immediate area.

Comments and Questions:

In response to Mr. Jackere, Mr. Speegle informed that his house contains 1324 sq ft of floor space.

Applicant's Rebuttal:

Mr. Suess stated that numerous new subdivisions are currently being developed with 5' side yards. He pointed out that a detached garage could be constructed by right within 3' of the rear or side property lines.

Additional Comments:

In response to Mr. Bolzle, Mr. Suess informed that the house will have one and one-half or two stories.

Mr. Bolzle stated that he is concerned with the 15' requested rear yard.

Case No. 16471 (continued)

After discussion concerning the fact that there are only three Board members present, Mr. Suess requested that the case be continued until November 9, 1993.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **CONTINUE** Case No. 16471 to November 9, 1993, as requested by the applicant.

Case No. 16472

Action Requested:

Special Exception to permit a bank drive-in facility in an OL zoned district, and for a variance of the required setback from the centerline of south Utica from 100' to 55' - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** - Use Unit 11, located 1514-1524 South Utica.

Presentation:

The applicant, **Heiliger, Inc.**, 7170 South Braden, Suite 170, was represented by **Charles Norman**, 2900 Mid-Continent Tower, who explained that the Bank of Tulsa is proposing to construct a drive-in banking facility (Exhibit J-1) on the subject property. He stated that his client is proposing to remove three apartment buildings and grade the land to the level of South Utica Avenue. He pointed out that the drive-in facility will be approximately 4' lower than the alley, with all vehicles entering the site from the north, and exiting to the south. He stated that a 12' wide landscaped area will be installed on the north and south sides of the lot, with 8' of landscaping to the west. Mr. Norman noted that the plot plan has been revised to satisfy the Traffic Engineering Department and all lighting will be attached to the interior portion of the screening wall. Photographs (Exhibit J-2) were submitted.

Comments and Questions:

Mr. Bolzle advised that, because of a possible conflict of interest, he will abstain from hearing the case. Due to a lack of quorum, it was necessary to continue Case No. 16472 to November 9, 1993.

Protestants: Protestants were in attendance.

Board Action:

On **MOTION** of **T. WHITE**, the Board voted 2-0-1 (Doverspike, T. White, "aye"; no "nays"; Bolzle, abstaining"; Chappelle, S. White, "absent") to **CONTINUE** Case No. 16472 to November 9, 1993.

Case No. 16474

Action Requested:

Variance of the maximum 3000 sq ft for a dry cleaning establishment.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, submitted a plot plan (Exhibit K-1) and requested permission for his client to operate a dry cleaning business on the subject property. He informed that the properties to the north, south, east and west are zoned commercial. Mr. Johnsen requested that the approval not be made per the site plan submitted, because the boundary may shift approximately 5'. He pointed out that the detail site plan will be reviewed by the Planning Commission.

Comments and Questions:

In response to Mr. Bolzle, Mr. Gardner explained that there are different types of dry cleaning establishments; however, this facility is commercial, with a large portion of the building being devoted to display and customer pick-up.

Mr. Johnsen stated that 60% of the facility is utilized by the cleaning plant and 40% of the area is devoted to customer service.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Variance** of the maximum 3000 sq ft to 4200 sq ft for a dry cleaning establishment; finding that the actual dry cleaning portion of the commercial business occupies approximately 60% of the total square footage of the facility; and finding that the operation is compatible with the surrounding uses, and in harmony with the spirit and intent of the Code; on the following described property:

A part of Section 27, T-19-N, R-13-E, Tulsa County, Oklahoma, beginning at a point 311' south of the NE/c of said Section 27, thence south parallel along the east line of Section 27, a distance of 135' thence west parallel to the north line of Section 27 a distance of 231' thence north parallel to the east line of Section 27 a distance of 135' thence east parallel to the north line of Section 27 a distance of 231' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16475

Action Requested:

Variance to amend a condition of approval to a previously approved special exception, located 7102 South Memorial Drive.

Presentation:

The applicant, **Brad Naifeh**, 6388-B South 80th East Avenue, was not present.


Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **DENY** Case No. 16475, due to the fact that the applicant failed to appear before the Board.

There being no further business, the meeting was adjourned at 3:40 p.m.

Date Approved

Nov 9, 1993


Chairman