

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 663
Tuesday, August 23, 1994, 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 Turnbo 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 Monday, August 22, 1994, at 9:55 a.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 1:04 p.m.

MINUTES:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, Chappelle, "absent") to **APPROVE** the Minutes of August 9, 1994 (No. 662).

UNFINISHED BUSINESS

Case No. 16757

Action Requested:

Variance of the required front yard to permit an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 3423 South 149th East Avenue.

Presentation:

The applicant, **Duke Anzlovar**, PO Box 181, Inola, Oklahoma, contractor for the project, was represented by **Mike Farmer**, 1920 South Cheyenne, who submitted photographs (Exhibit A-1), a petition of support (Exhibit A-2) and a location map (Exhibit A-3). He explained that his client made a construction error and a portion of the garage extends 8' over the required building setback line. He noted that the curvature of the street at this location prevents a straight alignment of the dwellings, and the house in question does not obstruct the line of sight. Mr. Farmer pointed out that a similar variance was recently approved at 1914 North Santa Fe Place. In conclusion, Mr. Farmer stated that the curvature of the street minimizes the impact of the variance on the surrounding area, and the general appearance and quality of the neighborhood are not negatively affected.

Comments and Questions:

Mr. Doverspike inquired as to the actual encroachment, and Mr. Farmer replied that the dwelling was constructed 8' over the building setback line.

Mr. Doverspike asked if the house could have been constructed 8' farther to the east, and Mr. Farmer stated that he cannot show a hardship in relation to this matter.

Protestants:

Dean Luthey, 1239 East 27th Street, who represented the Sunwood Hills Homeowners Association, stated that approximately 100 residents of the area have signed a petition protesting the application. Mr. Luthey noted that the encroachment is substantial, and that Joe Harris, City inspector, stated that the builder advised him that he knew he was not in compliance with the Code in regard to the required setback.

In reply to Mr. Jackere, Mr. Luthey stated that Mr. Harris had this conversation with the builder when the initial cease and desist order was issued.

Mr. Luthey emphasized that the builder has totally disregarded the initial building plans, as well as restrictive covenants. He asked the Board to deny the request.

Joy Jones, 3459 South 149th East Avenue, reviewed the petition of support and noted that there is one address on the sheet that does not exist and that the list should be verified. She pointed out that the house in question is the only one in the subdivision that has been constructed over the building setback line.

Wes Sirkis, 3431 South 149th East Avenue, informed that he lives to the south of the house in question, and pointed out that the house was obviously constructed with the curve in mind, because one corner of the garage is closer to the street than the other side. Mr. Sirkis stated that the builder's mistake will have a negative impact on property values in the neighborhood.

Mr. White asked Mr. Sirkis if he lives in the house for sale next door, and he answered in the affirmative.

Jerry Bryant, 14827 East 34th Street, stated that he lives around the corner from the house in question and pointed out that other property owners in the addition have complied with setbacks, and asked that the applicant be required to conform to Code requirements.

Case No. 16757 (continued)

Applicant's Rebuttal:

Mr. Anzlovar stated that he has previously constructed homes in other cities; however, the house in question is the first one he has built in Tulsa. He pointed out that other City departments checked setbacks when the building plans are submitted, and that his plans were approved by the City of Tulsa with a 2' encroachment. Mr. Anzlovar pointed out that, if the house had been constructed per plans, he would still be in violation of the Code.

Additional Comments:

Mr. Bolzle noted that a hardship finding is required for approval, and counsel for the applicant has stated that he cannot supply a hardship that would justify moving the house 8' over the setback line. He emphasized that it is the builder's responsibility to comply with all Code requirements during construction. Mr. Bolzle pointed out that there is an existing dwelling next door and it should have been apparent that the new construction was well beyond the setback line.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **DENY** a **Variance** of the required front yard to permit an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the applicant failed to present a hardship peculiar to the land that would warrant granting a variance request; on the following described property:

Lot 7, Block 6, Sunwood Hill Second, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16728

Action Requested:

Special Exception to permit residential use in an OL zoned district - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** - Use Unit 11, located 1872 East 15th Street.

Presentation:

The applicant, **Hamid Nazari**, 1872 East 15th Street, was present.

Comments and Questions:

Mr. Bolzle informed the he will abstain from hearing Case No. 16728.

In review, Mr. Doverspike informed that Mr. Chappelle was absent at the previous meeting and the case was continued in order that the applicant might have the benefit of being heard by the entire Board. He noted that Mr. Chappelle is also absent today. He remarked that Mr. Jackere has advised that a reconsideration requires readvertising, and the case should not be heard until the next meeting.

Case No. 16728 (continued)

In response to Mr. Jackere, Mr. Doverspike advised that he voted against the application at the previous meeting and does not choose to make a motion for reconsideration. He stated that the previous motion failed for lack of three affirmative votes for approval and, therefore, the application is denied.

Lot 1, Block 1, Terrace Park, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16754

Action Requested:

Variance of the setback from the centerline of Lewis Avenue - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13, located northwest corner of East Pine Street and North Lewis Avenue.

Presentation:

The applicant, **Wallace Wozencraft**, 5801 East 41st Street, submitted a plot plan (Exhibit B-1) for the project, and noted that his client is proposing to upgrade the Springdale Shopping Center. He explained that building "C" was constructed over the current building setback line, and is approximately 50' closer to the street than the Zoning Code permits. Mr. Wozencraft stated that the new fascia will extend approximately 2' over the setback line. Photographs (Exhibit B-2) were submitted.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the setback from the centerline of Lewis Avenue - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13; per plot plan; finding that the center was developed prior to current setback requirements; finding that the encroachment (Building C) is minimal (2") and approval of the request will not cause substantial detriment to the public good, or violate the spirit and intent of the Code; on the following described property:

Lot 16 and the south 210' of the east 215' of the N/2, S/2, Lot 1, and S/2, S/2, Lots 1 and 2, Prospect Place Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16755

Action Requested:

Special Exception to permit a church and accessory uses in an RS-2 zoned district -
SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -
Use Unit 2, located SE/c of East 13th Street and South 129th East Avenue.

Presentation:

The applicant, **Henry Penix**, 1528 East 41st Street, was represented by his son, **Henry Penix Jr.**, who submitted a plot plan (Exhibit C-1) and requested permission to use the property in question for church purposes. He stated that there is one church approximately 300' from the subject tract, and another approximately four blocks away. He noted that the size of the tract will permit construction in such a manner that the residential area will not be negatively impacted.

Comments and Questions:

Mr. Doverspike asked if the two structures to the south will be used for church purposes, and the applicant stated that the church will continue to use these houses as dwelling units.

In response to Mr. Doverspike, the applicant stated that the church may have a day camp, as well as customary church services.

Protestants:

Scott Duffield, 12808 East 13th Street, stated that it is his understanding that the subject property is located in a flood zone, and the construction could have a negative impact on the property down stream.

Billy Mitchell, 1266 South 128th East Avenue, questioned the location of the property depicted on the case map, and Ms. Russell informed that one lot was inadvertently omitted on the map.

Mr. Mitchell stated that the addition of the proposed church will make a total of four churches surrounding his property.

Ms. Russell advised that she has had phone calls from residents who are concerned with ingress and egress on 131st East Avenue.

After discussion, it was the consensus of the Board that church activities, as presented, on Lots 5-8 (western portion of the tract) would not be detrimental to the residential neighborhood.

Case No. 16755 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a Special Exception to permit a church and accessory uses in an RS-2 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to church use being limited to Lots 5-8; subject to ingress and egress being the existing curb cut on 14th Street and any other church access being limited to 129th East Avenue only; and subject to no parking in the required front yard; finding church use on the western portion of the tract to be compatible with the area; on the following described property:

Lots 5-8, Block 5, Romoland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16756

Action Requested:

Variance to permit a second story to an existing detached accessory building - **SECTION 210.B.5. Permitted Obstructions in Required Yards** - Use Unit 6, located 2653 South Trenton Avenue.

Presentation:

The applicant, **Charlotte Burton**, 2653 South Trenton Avenue, submitted letters of support (Exhibit D-1) and requested permission to retain the second story portion of an existing accessory building that was constructed without a building permit. Ms. Burton explained that the second story is actually a storage loft that was constructed above the roofline of the existing building. Photographs (Exhibit D-3) and a plot plan (Exhibit D-4) were submitted. The applicant informed that there are other similar structures in the general neighborhood.

Comments and Questions:

In response to Mr. Bolzle, Ms. Burton informed that there are existing quarters beside the garage.

Mr. Bolzle asked if there are cooking or bathroom facilities upstairs, and Ms. Burton stated that this area is designed as a loft.

In reply to Mr. Bolzle, Ms. Burton stated that a ladder will be used to reach the loft area, which is approximately 7' at the highest point. .

Case No. 16756 (continued)

Protestants:

Patricia Nelson stated that she lives in the residence to the south of subject property and the construction of the addition has resulted in an invasion of her family's privacy. She explained that windows have been installed along the side of the loft area and they provide a view of her back yard and other rooms of her home. Ms. Nelson advised that she was denied a building permit to construct a porch to provide some privacy at the rear of her home. She voiced a concern that the quarters will be used for an apartment in the future, and noted that there are no existing two-story garages on the east side of South Trenton . A letter of protest and photographs (Exhibit D-2) were submitted. Ms. Nelson asked that the narrow width of the lots and the proximity of the homes be considered in making a decision regarding this case.

In response to Mr. Bolzle, **Gerald Nelson**, 2657 South Trenton, stated that the pool has been removed, but a large portion of his back yard and pool were visible from the windows in the loft. He pointed out that the applicant failed to acquire a building permit for the addition and requested that the variance be denied.

Applicant's Rebuttal:

Ms. Burton stated that she and the Nelson family have had many disagreements over the past 20 years, and that she has planted trees in an attempt to provide a buffer between the two houses.

Additional Comments:

Mr. Doverspike and Mr. Bolzle stated that, although there are two-story garages in the neighborhood, they are unable to find a hardship unique to the property that would warrant granting the variance request.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **DENY** a **Variance** to permit a second story to an existing detached accessory building - **SECTION 210.B.5. Permitted Obstructions in Required Yards** - Use Unit 6; finding that the applicant failed to demonstrate a hardship unique to the property that would justify the granting of a variance; on the following described property:

Lot 13, Block 15, Terwilleger Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16758

Action Requested:

Variance to reduce the required rear yard - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2469 East 33rd Street.

Presentation:

The applicant, **Kevin and Amy Swartz**, 2469 East 33rd Street, submitted a plot plan and petition of support (Exhibit E-1) and informed that they are proposing to enclose and expand an existing carport. Ms. Swartz stated that the house was constructed diagonally on the lot and one corner of the new garage will extended 6' over the required building setback line in the rear yard. She noted that the placement of the garage at the proposed location will allow the existing retaining wall to remain. Photographs (Exhibit E-2) were submitted.

Comments and Questions:

Mr. Bolzle asked if there is a garage on the lot, and Ms. Swartz replied that the previous owners converted the garage to an activity room.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** to reduce the required rear yard - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the cul-de-sac location, the placement of the dwelling and the irregular shape of the lot; on the following described property:

Lot 1, Block 1, Timberland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16759

Action Requested:

Special Exception to permit a beauty school (Use Unit 15) in a CS District - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15, located 11630 East 21st Street.

Case No. 16759 (continued)

Presentation:

The applicant, **Jerry Carter**, 11630 East 21st Street South, was represented by **Jim Doherty**, 616 South Boston Avenue, who requested permission for a cosmetology college to continue operation at the current location. Mr. Doherty informed that adequate parking is available. He explained that Mr. Carter acquired permits and began operation before it was discovered that Board of Adjustment approval is required for the use. A plot plan (Exhibit F-1) was submitted.

Comments and Questions:

Mr. Doverspike inquired as to the number of students enrolled in the school, and Mr. Doherty replied that 85 students are currently enrolled; however, the facility will accommodate 300.

In response to Mr. Doverspike, Mr. Doherty informed that the school will have both day and evening classes.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a beauty school (Use Unit 15) in a CS District - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15; per plan submitted; finding the use to be compatible with the area and in harmony with the spirit and intent of the Code: on the following described property:

Lot 1, Block 1, Burris Square, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16760

Action Requested:

Variance of livability space - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 303 East 21st Street.

Comments and Questions:

Mr. Doverspike advised that Ms. Turnbo will abstain from hearing Case No. 16760.

Presentation:

The applicant, **Dan Perry**, 146 East 21st Street, #2, was represented by **Jeff Lower**, 2431 East 61st Street, who informed that his client obtained a lot split and is proposing to construct a dwelling (Exhibit G-1) on the newly created lot. He explained that one month after the lot split was approved the area was rezoned to HP (Historic Preservation), which prohibits the construction of garages on the front portion of a dwelling. Mr. Lower stated that his client has submitted a plan to the Historic Preservation Commission which is acceptable; however, the long driveway to the rear of the dwelling decreases the livability space and requires Board approval. He pointed out that the house would comply with all requirements under the previous zoning classification, and asked the Board to approve the variance. An architectural rendering (Exhibit G-2) and a photograph (Exhibit G-3) were submitted.

Comments and Questions:

Mr. Doverspike asked Mr. Lower if the dwelling would comply with the required 4000 sq ft of livability if the garage could be located toward the front of the lot, and he answered in the affirmative.

Protestants:

Lori Gilliard, 304 East 20th Street, stated that her lot abuts the subject property to the rear, and stated that she is opposed to the continual splitting of existing tracts in the neighborhood. She emphasized that each variance or special exception approved by the Board reduces the value of the neighborhood. Ms. Gilliard stated that the lot is too small for the proposed dwelling and would not be in character with other development in the area.

Mr. Bolzle asked if there are numerous homes in Maple Ridge on 50' lots, and Ms. Gilliard stated that this is true; however, this particular case is a unique situation because it is located on 21st Street, the "entryway" to Maple Ridge.

Cody Carter, 301 East 21st Street, informed that he lives next door to the lot in question, and pointed out that Maple Ridge is one of the "jewels" of Tulsa, with several older mansions. He noted that the area along 21st Street does not have 50' lots, and asked the Board to preserve the character of the neighborhood by denying the application.

Case No. 16760 (continued)

In response to Mr. Bolzle, Mr. Carter informed that his lot is 75' wide.

Mr. Bolzle asked Mr. Carter if his garage is attached or detached, and he replied that his home has a carport on the side and no garage.

In reply to Mr. Bolzle, Mr. Carter stated that his house contains approximately 3200 sq ft of floor space.

Applicant's Rebuttal:

Mr. Lower reiterated that the house plans have been approved by the Historic Preservation Commission, and noted that Mr. Carter bought his lot from Mr. Perry with the knowledge that the adjoining lot was split and would be developed.

Mr. Bolzle inquired as to the square footage of the proposed dwelling, and Mr. Lower replied that it will contain approximately 2800 sq ft.

Additional Comments:

Mr. Bolzle stated that he finds a hardship demonstrated by the irregular shape of the lot. He also noted that the dwelling would comply with Code requirements if the garage could be constructed at another location on the lot. Mr. Bolzle added that the livability requirement was imposed in 1970, many years after the neighborhood was developed.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, Doverspike, White, "aye"; no "nays"; Turnbo, "abstaining"; Chappelle, "absent") to **APPROVE** a **Variance** of livability space - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the irregular shape of the lot; finding that the proposed dwelling could be constructed by right, except for the HP requirement that the garage be located to the rear of the house; and finding that approval of the request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

All of Lot Seventy-Six (76) and the South Eight (8) feet of Lots Seventy-Eight (78) and Seventy-Nine (79) and part of the vacated alleys contiguous and adjacent thereto in Block Nine (9) of the SOUTH SIDE ADDITION to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded Plat thereof, LESS and EXCEPT the WEST Seventy-Two (72) feet; all of which is more particularly described as follows, to-wit:

Beginning at a point at the Southwest corner of Lot 76 in Block 9 of SOUTH SIDE ADDITION to the City of Tulsa, County of Tulsa, State of Oklahoma; thence North along the West line of said Block a distance of 108 feet to a point; thence East and parallel with the South line of Lots 78 and 79 in said Block a distance of 100 feet to a point on the East line of Lot 79; thence South a distance of 18 feet to a point; thence East and parallel with the South line of Lot 80 in said Block a distance of 50 feet to a point; thence South a distance of 90 feet to a point on the South line of said Block 9; thence West and along the South line of Lot 76 a distance of 150 feet to the POINT OF BEGINNING, LESS and EXCEPT the WEST Seventy-Two (72) feet.

Case No. 16761

Action Requested:

Variance of the required setback from the centerline of 15th Street, and a variance of the parking standards - **SECTION 215. STRUCTURE SETBACK** - Use Unit 11, located 1639 East 15th Street.

Presentation:

The applicant, **Fox Architects**, 1560 East 21st Street, was represented by **Pat Fox**, who submitted a plot plan (Exhibit H-1) and explained that he is requesting a variance of the required setback from 50' to 30' to accommodate the expansion of the existing building. He asked that the moving lane between parking spaces be reduced from 24' to 21½' to allow some flexibility in the parking arrangement. Mr. Fox submitted letters of support (Exhibit H-3) and a letter from **Jon Eshelman** (Exhibit H-2), which stated that additional right-of-way will not be needed at this location.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of 15th Street, and a **variance** of the parking standards - **SECTION 215. STRUCTURE SETBACK** - Use Unit 11; per plan submitted; finding that there are similar setbacks in the area and approval of the request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

Case No. 16761 (continued)

East 47.5' of Lots 13 and 14, and the east 47.5' of the S/2 of Lot 15, Block 4, and the east 10' of the vacated alley on the east in Lake View Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16762

Action Requested:

Special Exception to amend a previously approved plot plan - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located 11106 East 7th Street.

Presentation:

The applicant, **Stephen Olsen**, 324 East 3rd Street, was represented by **Terry Walls**, 11106 East 7th Street, who requested permission for the Moose Lodge to construct an addition (20' by 120') to the rear of an existing building. He informed that the addition will replace a mobile unit that has been used for storage. A plot plan (Exhibit J-1) was submitted.

Comments and Questions:

In response to Mr. Doverspike, Mr. Walls stated that the roof height begins at 14' and continues along the existing roofline.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to amend a previously approved plot plan - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to the removal of the existing mobile home; finding that the new construction will be compatible with the area; on the following described property:

Lots 1 and 2, East Eleventh Park Subdivision, less the east 15' of Lot 2 and less east 162' of Lot 1, Block 2, East Eleventh Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16763

Action Requested:

Variance of the required setback from the centerline South Lewis Avenue to permit a sign - **Section 1221.C.6 General Use Conditions For Business Signs** - Use Unit 12, located 1509 South Lewis Avenue.

Presentation:

The applicant, **Tulsa Neon, Inc.**, 3211 West 21st Street, was represented by **James Parker**, 3211 West 21st Street, who requested permission to construct a street identification sign at the above stated location. He stated that, if required to comply with the 50' setback, the sign will be located in the parking lot area. Mr. Parker informed that it is his intent to install the sign on an existing sign base that was used by the previous tenant. A plot plan (Exhibit K-1) was submitted.

Comments and Questions:

Mr. Doverspike asked if the previous sign is still in place, and Mr. Parker replied that only the base remains.

In response to Mr. Doverspike, Mr. Parker informed that the sign will have internal lighting, with tracing bulbs around the perimeter.

Mr. Doverspike inquired as to the size of the sign, and Mr. Parker replied that the previous sign contained 80 sq ft of display surface area, and the new sign will have 66 sq ft.

In reply to Mr. Bolzle, Mr. Gardner advised that the a condition requiring a removal contract is appropriate, since the sign is within the 50' setback area.

In response to Mr. White, Mr. Parker informed that it is their intent that the bottom of the smaller sign will be 16' above the parking lot surface, with the total sign height being 24'.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-1-0 (Bolzle, Turnbo, White, "aye"; Doverspike, "nay"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline South Lewis Avenue to permit a sign - **Section 1221.C.6 General Use Conditions For Business Signs** - Use Unit 12; per plan submitted, with the modification of total height to 24'; subject to the execution of a removal contract; finding that the sign will be installed on an existing sign base; and finding that moving the sign to the required setback would cause it to be inside the parking lot, resulting in a traffic hazard; on the following described property:

Lot 5, Block 2, McDonnell's Subdivision, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16764

Action Requested:

Variance of the required lot width to permit a lot split - **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2809 West 39th Street.

Comments and Questions:

Mr. Doverspike advised that it will be necessary to continue the case for proper advertising.

Presentation:

The applicant, **Robert Parker**, 2431 East 61st Street, #100, was not present.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, Chappelle, "absent") to **CONTINUE** Case No. 16764 to September 13, 1994, to allow sufficient time for readvertising.

Case No. 16765

Action Requested:

Special Exception to permit a drive-in banking facility in an OL zoned district, and a variance of the required setback from the centerline of South Utica Avenue - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** and **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICT** - Use Unit 11, located west side of Utica Avenue at East 14th Street.

Comments and Questions:

Mr. Bolzle advised that he will abstain from hearing Case No. 16765.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, noting that Mr. Bolzle is abstaining and that only three Board members are voting, requested that the application be continued to September 13, 1994.

Additional Comments:

There was discussion concerning the fact that Mr. Chappelle has been appointed to another Board and whether or not he can legally continue to serve temporarily on the Board of Adjustment.

Protestants:

William Barnett, 1419 South Troost, stated that three voting members are present, and that he is opposed to a continuance.

Case No. 16765 (continued)

Gail Owens, 1415 South Troost, stated that she objects to a continuance to September 13, 1994, because she will be out of town on that date.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Doverspike, Turnbo, White, "aye"; no "nays"; Bolzle, "abstaining"; Chappelle, "absent") to **CONTINUE** Case No. 16765 to September 13, 1994, as requested by the applicant.

Case No. 16766

Action Requested:

Special Exception to permit automobile sales in a CS District - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 2204 East 3rd Street.

Presentation:

The applicant, **Ben Moody III**, 4020 South 130th East Avenue, #510, submitted photographs (Exhibit L-2) and informed that he currently leases the property in question, which has been used exclusively for automobile sales during the past 17 years. Mr. Moody stated that he recently discovered that the property is not properly zoned for a car sales operation, and requested permission to continue the use at this location. He noted that car sales is permitted by right on CH property across the street. A plot plan (Exhibit L-1) was submitted.

Comments and Questions:

Mr. Doverspike asked if there will be structural changes, and the applicant stated that no changes are proposed.

In reply to Mr. Doverspike, the applicant stated that he was advised by an inspector that there has been a car lot at this location since the late 60s and possibly earlier.

Mr. Bolzle asked if there will be automobile repair at this location, and Mr. Moody stated that the lot will be used strictly for car sales, with no repair or detailing being done on the premises.

Mr. Doverspike asked if there will be outside storage of material, and Mr. Moody replied that all material is stored inside. He noted that all vehicles stored on the lot will be operable.

Mr. Doverspike asked if there is a privacy fence on the south and east boundaries, and the applicant answered in the affirmative.

Protestants:

None.

Case No. 16766 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit automobile sales in a CS District - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; subject to no repair or outside storage of parts or equipment; and subject to operable vehicles only; finding that the site has been used for auto sales for many years and that the use is permitted by right across the street, and finding that approval of the request will not be detrimental to the area; on the following described property:

South 5' of Lot 1, and all of Lot 2, Block 9, Wakefield Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16767

Action Requested:

Special Exception to permit residential and accessory uses in a CH zoned District - **SECTION 701. PRINCIPAL USES IN COMMERCIAL DISTRICTS** - Use Unit 6, located 5712 East Tecumseh.

Presentation:

The applicant, **David Patrick**, 5712 East Tecumseh, was represented by **Jim Doherty**, 616 South Boston, who submitted a plot plan (Exhibit M-1) and explained that the area was previously zoned CH, with the residence in question being the only residential use in the immediate area. He informed that Mr. Patrick is proposing to construct a 30' by 50' garage on the lot.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit residential and accessory uses in a CH zoned District - **SECTION 701. PRINCIPAL USES IN COMMERCIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the house was existing when the area was zoned CH and 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:

South 222' , Tract C, Original Town of Dawson, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16768

Action Requested:

Special Exception to permit Christmas tree sales from November 15th through December 26th, annually for a three-year period, variance of the required 100' setback from the centerline of East 41st Street and South Harvard Avenue, a variance of the setback from an abutting RM-2 zoned district, a variance to permit construction across zoning district lines and a special exception to permit Christmas tree sales in an R and CS District - Use Unit 2, located southeast corner of East 41st Street and South Harvard Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, stated that he is representing Southwest Nurseries, operators of the Christmas tree lot at the above stated location. He informed that the use has been continuous each year since 1954 and requested that the sales operation be permitted during the 1994, 1995 and 1996 Christmas seasons. Mr. Johnsen remarked that the sales lot operated without protest until 1992, when nearby residents on Jamestown expressed concerns. He informed that the application was approved in 1992, per development standards, and the development standards for the current application are basically the same. Mr. Johnsen stated that the Board voiced some concerns with traffic congestion and temporary curb cuts at the 1993 hearing, and since that time the traffic engineer has viewed the site and identified the exact location of the curb cuts. He informed that all curb cuts have now been permanently installed as designated. Mr. Johnsen noted that the distance from the northwest corner of the former protestant's property line to his clients property line is 100', and the distance to the nearest sales area is 325'. The applicant stated that there are two screening fences in place between the two properties and the nearest light to the residence is 100' away and it is turned off at 9 p.m. Mr. Johnsen stated that the covered tree storage area on the plan should be shifted 30' west and 30' north to comply with previously imposed setbacks. He emphasized that there has been no expansion of activities at this location for approximately 10 years and the sale of merchandise always begins on Thanksgiving Day. Development standards (Exhibit N-3) were submitted.

Comments and Questions:

In response to Mr. Doverspike, Mr. Johnsen stated that he is not aware of any problem with the curb cuts that were in place in 1993, and noted that the traffic engineer approved the spacing of the cuts.

Protestants:

Ms. Richard Heidinger, 4123 South Jamestown, stated that she is concerned with maintaining the integrity of the neighborhood, and noted that the continued approval of the special exception will set a precedent for commercial use of residentially zoned property.

Case No. 16768 (continued)

Kay Claxton, 4122 South Jamestown, submitted photographs (Exhibit N-4) and letters of opposition (Exhibit N-2) to the application. She pointed out in the photographs that the owner of the property is not complying with the development standards that he set forth. She noted that the storage buildings were not removed as required.

In response to Mr. Bolzle, Ms. Claxton stated that she cannot walk out into her back yard without seeing the operation and cannot take her normal route home because of the traffic. She asked that the business be removed from the residential portion of the property.

Mr. Doverspike asked if the 1993 sales operation posed any additional problems, and Ms. Claxton informed that she is opposed to stacking the trees above the fence in the buffer zone. She noted that the south fence on the sales lot is chain link and not a privacy fence.

Gordon Holmes, 3720 East 43rd Street, noted that the owner of the subject tract owns property to the south and suggested that the operation be moved in that direction and off of the RM-2 zoned property.

Mr. Bolzle advised Mr. Holmes that moving the operation to the south would require Board of Adjustment approval and these properties also abut residential areas.

Mr. Holmes pointed out that these residential lots are deeper and residences would be farther away from the activity.

Applicant's Rebuttal:

Mr. Johnsen noted that property owners abutting the sales operation have not objected to the use. He clarified that his client agreed to move all buildings except the two cashier buildings and the drill shed; however, the coffee building also remained, which was an oversight.

Ms. Turnbo inquired as to the permitted hours for the erection of the tents and sheds, and Mr. Jackere pointed out that the previous development standards required that all sheds, tents and temporary structures be erected during daylight hours only.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit Christmas tree sales from November 15th through December 26th, annually for a three-year period (1994, 1995, 1996), **variance** of the required 100' setback from the centerline of East 41st Street and South Harvard Avenue, a **variance** of the setback from an abutting RM-2 zoned district, a **variance** to permit construction across zoning district lines and a **special exception** to permit Christmas tree sales in an R and CS District - Use Unit 2; per plan submitted; subject to the following development standards:

1. Development and use of the site shall be in substantial accord with the submitted plot plan entitled "41st and Harvard Christmas Tree Lot".
2. Sales activities shall be limited to the periods commencing Thanksgiving Day and ending Christmas Eve.
3. Sales activities shall be limited to the hours from 8 a.m. to 10 p.m. on Sunday through Wednesday and 8 a.m. to 10:30 p.m. on Thursday through Saturday, all activity except security to cease at 11 p.m.
4. Construction of sheds, tents and other temporary facilities shall not commence prior to November 1, 1994 and such temporary facilities shall be removed before January 1, 1995, provided however, the on-site storage of two cashier buildings, a drill shed and a coffee building shall be permitted. Construction during daylight hours only of sheds, tents and other temporary structures.
5. Tree unloading activities shall be limited to daylight hours.
6. A stockade fence as depicted on the site plan shall be maintained along the east boundary of the easternmost tree storage area.
7. Flood lighting shall be limited to two lights along 41st Street and two lights along Harvard Avenue and the fixtures shall be directed downward.
8. Pole lights, other than flood lighting, shall be limited to 175 watt mercury vapor (ready lights) on standards not exceeding 25' in height and shall not be located within 75' of the east boundary of the site and pole lights located within 120' of the east boundary of the site shall be turned off not later than 9 p.m.

Case No. 16768 (continued)

9. Customer off-street parking shall be provided as follows:
 - a. 12 spaces along the north boundary of the principal sales area
 - b. 7 spaces along the east boundary of the principal sales area
 - c. 14 spaces along the south boundary of the principal sales area
 - d. 20 spaces along the north boundary of the flocked tree sales area
10. Employee parking of not less than 40 spaces shall be provided on the off-site tract abutting the south boundary of the site; finding that the temporary sales operation, per conditions, is not detrimental to the area; on the following described property:

Lots 1 and 2, and the west 100' of Lots 25 and 26 and the east 100' of Lot 3, Block 1, Villa Grove Heights One Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16769

Action Requested:

Variance of the required 60' setback to 50' to permit a sign - Use Unit 8, located 3121 South 145th East Avenue.

Comments and Questions:

Ms. Russell noted that she had a phone conversation with the applicant prior to the meeting. She stated that he could have misunderstood her explanation concerning the variance and thought it was not necessary to be present. She informed that a previous Board action granted a 40' setback (per plan) for the sign, which has actually been installed farther from the street.

Presentation:

The applicant, **Jack Easley**, 5588 South Garnett, was not present. A sign plan (Exhibit P-1) and an aerial (Exhibit P-2) from the case file were reviewed by the Board.

Interested Parties:

Robert Duenner, Box 70-1500, stated that he is not opposed to the sign at the current location.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required 60' setback to 50' to permit a sign; per plan and aerial; finding that the sign was actually installed at 50', rather than the 40' that was previously approved; on the following described property:

Case No. 16769 (continued)

All of Block 1, Woodland Hills Center Addition, less and except the following portions thereof, to-wit: That portion of said Block 1, beginning at the SW/c of Block 1, thence north along the west line of Block 1 a distance of 200' thence due east a distance of 150'; thence due south a distance of 196.67' to a point on the north ROW line of East 33rd Street South; thence westerly along the northerly line of said street ROW to the POB and the west 150' of the north 200' of said Block 1, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16770

Action Requested:

Special Exception to permit a mobile home in an AG zoned district, and a variance to permit two dwelling units on one lot of record - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** and **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9, located 17001 East 31st Street.

Presentation:

The applicant, **Tom Hill**, 2005 North 26th Street, Broken Arrow, Oklahoma, requested permission to install a temporary mobile home on his property, which will be used as a dwelling during the construction of a new home. Mr. Hill stated that he anticipates the construction period to be approximately three years, and the mobile home will be removed upon completion of the house. The applicant informed that his neighbors are supportive of the application. A plot plan (Exhibit R-1) was submitted.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an AG zoned district for three years only, and a **variance** to permit two dwelling units on one lot of record - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** and **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD** - Use Unit 9; per plan submitted; subject to the mobile home being removed after the permanent structure is completed (maximum of 3 years); subject to a building permit and Health Department approval; and subject to the mobile home being skirted and tied down; finding that the temporary use will not be detrimental to the area, or violate the spirit intent of the Code; on the following described property:

Case No. 16770 (continued)

S/2, SW/4, SE/4 of Section 14, T-19-N, R-14-E, City of Tulsa, Tulsa County,
Oklahoma.

There being no further business, the meeting was adjourned at 4:15 p.m.

Date Approved Sept. 13, 1994


Chairman

