

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 681
Tuesday, May 23, 1995, 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
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Abbott
Bolzle
Doverspike, Chairman
Turnbo
White

Gardner
Beach
Moore

Jackere, Legal
Department
Parnell, Code
Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, May 19, 1995, at 4:14 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 **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions", none "absent") to **APPROVE** the minutes of May 9, 1995 (No. 680); subject to a correction on the vote for Case No. 17033.

NEW APPLICATIONS

Case No. 17038

Action Requested:

Variance of the requirement that vehicles being parked, stored or displayed for sale be located on an all-weather material on January 1, 1995 - **SECTION 1407.E. PARKING, LOADING AND SCREENING NONCONFORMITIES** - Use Unit 17; or in the alternative, a special exception to permit storage and/or display of motorized vehicles on a surface other than all-weather if located behind the building setback line - **SECTION 222. MOTORIZED VEHICLES** - Use Unit 17, located 3939 South Memorial Drive.

Presentation:

The applicant, **Bradley Mallett**, 100 West 5th Street, Suite 800, was represented by **Bradley Beasley**, who informed that his client, Thomas Cadillac, was previously permitted to display vehicles on the grassy area in front of the business; however, the Zoning Code has been revised and the display is no longer permitted by right. Mr.

Case No. 17038 (continued)

Beasley submitted aerial photographs (Exhibit A-1) and noted that this dealership has been displaying automobiles on the green area for approximately 20 years and pointed out that grass is much more desirable than concrete. He stated that the area is properly maintained and the vehicles are placed in the designated grass portion of the display surface and are not moved often.

Protestants:

Ken Adams, vice chair for District 18, Area C, advised that numerous vehicles are displayed for sale in the City right-of-way and this type of vehicle sales continues to be a problem. He asked that the Board adhere to the new Code provision and deny the request.

In reply to Mr. Doverspike, Mr. Adams stated that the proposed display site for Thomas Cadillac is on private property, but is also on the grass.

Mr. Jackere advised that a variance is required to park vehicles in front of the setback line, even if the parking area is on private property.

Applicant's Rebuttal:

Mr. Beasley stated that his client is not requesting permission to park on the public right-of-way, which is approximately 15' from the curb, but would request that the vehicles be permitted inside the setback area. He noted that strict adherence to the Code, in regard to parking behind the building setback line, would result in the vehicles being parked behind the building.

Additional Comments:

In reply to Mr. White's question concerning the amount of paving required, Mr. Gardner advised that required paving space must be large enough to cover the entire length and width of the vehicle.

In response to Mr. Doverspike, Ms. Parnell advised that any conditions imposed by the Board on this particular business would not be difficult to enforce.

Mr. Jackere advised that the City has other ordinances besides the Zoning Code that require proper maintenance (grass mowing, etc.) of property.

Mr. Doverspike and Mr. Bolzle stated that they are not supportive of the request because they do not find a hardship for the granting of a variance.

Case No. 17038 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of the requirement that vehicles being parked, stored or displayed for sale be located on an all-weather material before January 1, 1995 - **SECTION 1407.E. PARKING, LOADING AND SCREENING NONCONFORMITIES** - Use Unit 17; finding that the applicant failed to demonstrate a hardship for the variance request.

There was discussion concerning Mr. Bolzle's motion to approve the special exception. Mr. Doverspike noted that the area behind the building setback line is also visible from the street and to developed uses. Mr. Bolzle then withdrew his motion for approval.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-1-1 (Bolzle, Doverspike, Turnbo, "aye"; Abbott, "nay"; White, "abstaining"; none "absent") to **DENY** a **Special Exception** to permit storage and/or display of motorized vehicles on a surface other than all-weather if located behind the building setback line - **SECTION 222. MOTORIZED VEHICLES** - Use Unit 17; finding that the area in question is visible to surrounding developed uses; and finding that approval of the request would be detrimental to the area, and violate the spirit and intent of the Code; on the following described property:

Lot 2, Block 1 and part of Lot 3, beginning 339' west of the SE/c; thence west 236.50'; thence north 190'; thence west 190'; thence north 435.91'; thence northeast 76.91'; thence north 92.80'; thence east 200'; thence north 137.24'; thence southeast 260.28'; thence south 245.35'; thence west 24'; thence south 578.64' to POB, Block 1, Bond Second addition amended, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17039

Action Requested:

Variance of the required setback from north property line from 20' to 6' to permit an accessory building - **SECTION 402.B.1.C. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1231 North Detroit.

Presentation:

The applicant, **James Ross**, 1231 North Detroit Avenue, submitted a plot plan (Exhibit B-1) and requested permission to construct an accessory building 6' from the property line. He informed that a privacy fence is in place between the two properties. Photographs (Exhibit B-2) were submitted.

Case No. 17039 (continued)

Comments and Questions:

Mr. Doverspike asked if the storage building will be 20' by 24', and the applicant answered in the affirmative.

In reply to Mr. Doverspike, the applicant stated that the building cannot be farther to the south because of an existing pecan tree and underground utility lines.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from north property line from 20' to 6' to permit an accessory building - **SECTION 402.B.1.C. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that construction at the required setback would necessitate the removal of a mature tree and would cover underground utility lines; on the following described property:

Lot 3, Block 5, Unity Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17040

Action Requested:

Special Exception to permit mobile home use (2 mobiles on 2 lots) in an RS-3 zoned district, and a variance of the one-year time limitation to permanent - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, located 3653 and 3657 South Maybelle Avenue.

Presentation:

The applicant, **Timothy Nall**, 3755 South Tacoma, stated that he is proposing to install a mobile home on each of two separate residential lots (Exhibit C-5). He submitted photographs (Exhibit C-4) and noted that there are numerous mobile homes in the neighborhood. Mr. Nall informed that ruins of burned-out houses have been removed from the lots and they are being properly maintained. A letter from the owner (Exhibit C-3) and a petition of support (Exhibit C-2) were submitted. Mr. Nall stated that both lots are served by the City sewer (Exhibit C-1).

Comments and Questions:

Mr. Doverspike asked if the mobile homes will be skirted and tied down, and Mr. Nall answered in the affirmative.

Case No. 17040 (continued)

Mr. Gardner advised that the Comprehensive Plan designates the area for industrial development.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit mobile home use (2 mobiles on 2 lots) in an RS-3 zoned district, and a **variance** of the one-year time limitation to permanent - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; per plan submitted; subject to the mobile units being skirted and tied down; finding the use to be compatible with the neighborhood and in harmony with the spirit and intent of the Code; on the following described property:

Lots 20 and 21, Block 7, Garden City Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17041

Action Requested:

Special Exception to permit park use in an RS-3 District - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 33rd Street and Mingo Road.

Presentation:

The applicant, **City of Tulsa**, 707 South Houston, Suite 201, was represented by **Ross Weller**, who submitted a plot plan (Exhibit D-1) for funded improvements to the existing public park. He informed that the work will involve the drainage system, playgrounds, sidewalks, picnic tables and a volleyball court.

Comments and Questions:

In reply to Mr. Doverspike, Mr. Weller stated that this request is for funded items only.

Protestants:

None.

Case No. 17041 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to permit park use in an RS-3 District - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted (funded items only); finding park use to be compatible with the residential neighborhood; on the following described property:

Beginning at the SW/c Lot 2, Section 19, T-19-N, R-14-E, IBM, thence north a distance of 1203'; thence N89°53'E a distance of 265.46'; thence S37°23'E a distance of 1511.24'; thence S 89°53'W a distance of 1183' to POB less the west 25' for Mingo Road, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17042

Action Requested:

Variance of the required side yard from 10' to 9' to permit an addition to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 417 South 45th West Avenue.

Presentation:

The applicant, **Richard Reinert**, 417 South 45th West Avenue, submitted a plot plan (Exhibit E-1) and requested permission to construct an addition to an existing dwelling that was built over the current required setback. He informed that the new construction will align with the existing building wall.

Comments and Questions:

In response Mr. Doverspike, the applicant stated that the residence was constructed over 40 years ago.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of the required side yard from 10' to 9' to permit an addition to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the new construction will align with the existing building wall and will not extend farther into the required setback; 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:

Lot 20, Block 4, Vern Dale Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17043

Action Requested:

Variance of the permitted square footage for a detached accessory building from 750 sq ft to 1280 sq ft - **SECTION 402.B.1.d. Accessory Use Conditions** - Use Unit 6, located 5740 South 31st West Avenue.

Presentation:

The applicant, **Mark Benton**, 5740 South 31st West Avenue, submitted a plot plan (Exhibit F-1) and requested permission to construct an accessory building to the rear of his residence. He stated that the structure will be of the same brick exterior and quality construction as his home and will not be used for any type of commercial activity. Mr. Benton stated that he plans to use approximately one-half of the facility for storage and the other portion for a hobby shop.

Comments and Questions:

Mr. Bolzle inquired as to the size of the dwelling, and Mr. Benton replied that the house contains approximately 2200 sq ft of floor space and it is located on one acre of land.

Mr. Doverspike asked if the land to the west is developed, and the applicant stated that it is vacant.

Mr. Bolzle asked if cooking or bathroom facilities will be installed in the building, and Mr. Benton replied that there will be none.

Mr. Doverspike inquired as to the height of the proposed structure, and the applicant stated that the building will be 14' in height.

Protestant:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the permitted square footage for a detached accessory building from 750 sq ft to 1280 sq ft - **SECTION 402.B.1.d. Accessory Use Conditions** - Use Unit 6; per plan submitted; subject to the building containing no cooking or bathroom facilities; and subject to no commercial activity conducted on the property in question; finding that the tract is large enough to support the additional construction and approval of the request will not be detrimental to the area; on the following described property:

POB - 335" east of the SW/c and 177' 6" north of south line SW/4, NW/4, SW/4, Section 34, T-19-N, R-12-E, thence north 152' 6", east 300', south 152' 6", west 300' to POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17044

Action Requested:

Variance of the required setback from Woodrow Place from 50' to 47.5' to permit expansion of an existing building - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13, located southwest corner North Harvard and East Woodrow Place.

Presentation:

The applicant, **Darin Frantz**, 2202 East 49th Street, was represented by **Joe Westervelt**, 1250 East 26th Street, who submitted a plot plan (Exhibit G-1) and explained that the proposed storage addition is to be constructed at this location on the lot because of utility service lines on the south side of the existing structure. He stated that four parking spaces will be converted to green space if the building addition is approved at the proposed location.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from Woodrow Place from 50' to 47.5' to permit expansion of an existing building - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13; per plan submitted; finding that the location of utility lines on the lot prevents expansion on the south side of the building; on the following described property:

East 125' of Lots 1 and 2, Block 3, Becky Gaile's Addition, a subdivision of Lot 1, Block 4, Marion Terrace Addition and Lots 1-4, 17-20, Block 1 and Lots 1-4, Block 4, and The Reserve, Fitts Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17045

Action Requested:

Variance of required street frontage from 150' to 139' to permit a lot split - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**, located 19th Street and South Sheridan Road

Case No. 17045 (continued)

Presentation:

The applicant, **Sisemore and Hall**, 102 North Elm Place, Broken Arrow, Oklahoma, was represented by **Ken Cox**, 320 South Boston, who submitted a plot plan (Exhibit H-1) and informed that a lot split was not obtained when the property was developed. He explained that the property does not have access to Sheridan Road; however, access easements have been acquired on adjoining lots to the north and south. Mr. Cox stated that additional curb cuts are not proposed.

Comments and Questions:

Mr. Gardner advised that approval of this request would result in the property becoming a legal lot and it would be entitled to an additional access point (curb cut) if not otherwise prohibited by the Board.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of required street frontage from 150' to 139' to permit a lot split - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**; per plan submitted; subject to no access to Sheridan Road be permitted on the lot frontage; finding that an access easement is provided to the north and south for access to existing curb cuts on Sheridan Road; 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:

Part of Lot 2, Block 2, Lynn Addition, City of Tulsa, Tulsa County, Oklahoma, more particularly described as follows: Commencing at the NE/c Lot 2, Block 2, Lynn Addition; thence S00°27'15"W a distance of 735.78' to the POB; thence N89°34'58"W a distance of 612.51'; thence S00°26'22"W a distance of 139'; thence S89°34'58"E a distance of 612.47'; thence N00°27'15"E a distance of 139' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17046

Action Requested:

Variance of front setback from the centerline of West 37th Place from 50' to 30', and a variance of the required setback from an abutting R District from 75' to 30' - **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 23, located 1010 West 37th Place.

Case No. 17046 (continued)

Presentation:

The applicant, **Mike Walker**, 1010 West 37th Place, requested that Case No. 17046 (Exhibit J-1) be continued to June 27, 1995.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 17046 to June 27, 1995.

Case No. 17048

Action Requested:

Variance of the required minimum 30' of frontage on a public street or dedicated ROW for 3 separate abutting parcels - **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6, located southeast corner of West 73rd Street South and South 33rd West Avenue.

Comments and Questions:

Mr. Doverspike advised that Mr. White and Mr. Bolzle will abstain from hearing Case No. 17048.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, advised that he is representing the Oglesby, Tomer and Boone families, and also Dr. Lester, who is involved in the development of the homesites. Ownership and sanitary sewer location maps were submitted (Exhibit K-3) and (Exhibit K-4). He informed that the three tracts of land in question each contain more than 5 acres and were originally a portion of a 72-acre tract that has remained undeveloped because it does not have access to City water or sewer. The applicant stated that a creek flows across the property and a minor floodplain has been identified within the boundaries of the 72-acre parcel. Mr. Norman stated that the land to the north has been developed and these dwellings have septic systems for sewage disposal. The applicant submitted a sanitary sewer analysis (Exhibit K-1) prepared by White Surveying Company, which stated that the nearby sewer lines do not have adequate capacity for additional flow and there are no municipal or private plans for sanitary sewer service construction in Creek County serving the Nickel Creek Basin. He advised that the parcels have all passed percolation tests and septic systems will be installed. Mr. Norman stated that a private compound containing 10-12 homesites is proposed, with a 50' wide mutual access easement (Exhibit K-2) to provide an internal private street built to City specifications. He noted that a floodplain permit and an earth change permit have been acquired and the property owners have paid a fee in lieu of detention. Mr. Norman informed that the three internal lots in question do not have 30' of frontage on a public street, as required by the Zoning Code, and asked the Board to grant the

Case No. 17048 (continued)

variance request. He noted that Section 119 of the State Statutes (Exhibit K-4) states that a municipality located in three or more counties can issue building permits on private streets without complying with the standards for dedicated streets with the conditions that the roadway easement be 50' wide, the property contains not less than two acres, properties be more than one-quarter mile from sewer and water services furnished by the municipality and that the private roadway not be dedicated and will be maintained by the owners of the property in the subdivision. Mr. Norman stated that it has not been determined by the City Legal Department if this statute applies to Tulsa, but the language seems to be clear.

Comments and Questions:

In response to Ms. Abbott, Mr. Gardner advised that, without the variance, the lots could not be developed as three individual lots, because they could not comply with the requirement that lots have 30' of frontage on a public street. He added that only one lot would have sufficient frontage.

Ms. Abbott inquired as to the initial division of the 72-acre tract, and Mr. Norman stated that it was originally divided into 3 parcels (approximately 16 acres, 19 acres and 37 acres). He informed that the property in question is a part of the 37-acre tract.

In reply to Ms. Abbott, Mr. Gardner stated that the applicant could have filed for a Planned Unit Development (PUD), which permits private streets.

Ms. Abbott asked if the applicant could file for a PUD without a City sewer being available, and Mr. Gardner informed that rural water is available and septic systems are permitted in PUDs as long as the sewer is not available.

Mr. Norman noted that this proposal complies with PUD requirements, with the intent of satisfying the spirit of the Code.

Mr. Gardner stated that, if the sewer was available, the development would be more dense than this proposal (2-3 dwelling units per acre).

In reply to Mr. Doverspike, Mr. Gardner advised that Staff is concerned that undeveloped areas around the City could request the same relief on similar tracts. He stated that the Board could find this case to be unique, considering Mr. Norman's presentation concerning the property.

In reply to Ms. Abbott, Mr. Gardner informed that a subdivision plat is required if a tract is divided into five or more lots.

Ms. Abbott stated that she finds no hardship and is not supportive of the request because the same end result could be accomplished by filing a PUD.

Case No. 17048 (continued)

Dr. Steven Lester informed that he and other doctor friends have been seeking a tract of land where they could build homes and requested that the variance be approved on two lots that do not have sufficient frontage.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 2-1-2 (Doverspike, Turnbo, "aye"; Abbott, "nay"; Bolzle, White, "abstaining"; none "absent") to **APPROVE*** a **Variance** of the required minimum 30' of frontage on a public street or dedicated ROW for 3 separate abutting parcels - **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6, per plan submitted.

*The application was denied, due to the lack of three affirmative votes.

SW/c of S/2 NW/4 Sec. 10 T-18-N R-12-E Indian Base and Meridian, Tulsa County, Oklahoma; thence due N a distance of 594.12'; thence due E a distance of 391.56'; thence on a curve to the left a radius of 300.00', a central angle of 55°04'27" a distance of 288.37'; thence on a curve to the right a radius of 195.00', a central angle of 130°48'25" a distance of 445.19'; thence on a curve to the left a radius of 520.00', a central angle of 39°21'26" a distance of 357.19'; thence on curve to the left a radius of 275.00', a central angle of 77°24'46" a distance of 371.55'; thence on a curve to the right a radius of 485.00', a central angle of 39°38'19" a distance of 335.53'; thence on a curve to the left a radius of 200.00', a central angle of 58°41'35" a distance of 204.88'; thence N 29°54'30" E a distance of 46.00' to the P.O.B.; thence continuing N 29°54'30" E a distance of 182.06'; thence on a curve to the right a radius of 350.00', a central angle of 35°46'20" a distance of 218.52'; thence S 82°35'01" E a distance of 371.24'; thence S 0°00'53" W a distance of 480.00'; thence N 69°56'26" W a distance of 657.95' to the P.O.B. **and commencing** at the SW/c of S/2 NW/4 Sec. 10 T-18-N R-12-E Indian Base and Meridian, Tulsa County, Oklahoma; thence due N a distance of 594.12'; thence due E a distance of 391.56'; thence on a curve to the left a radius of 300.00', a central angle of 55°04'27" a distance of 288.37'; thence on a curve to the right a radius of 195.00', a central angle of 130°48'25" a distance of 445.19'; thence on a curve to the left a radius of 520.00', a central angle of 39°21'26" a distance of 357.19'; thence on curve to the left a radius of 275.00', a central angle of 77°24'46" a distance of 371.55'; thence on a curve to the right a radius of 485.00', a central angle of 39°38'19" a distance of 335.53'; thence on a curve to the left a radius of 200.00', a central angle of 41°17'29" a distance of 144.13' to the P.O.B.; thence on a curve to the left a radius of 200.00', a central angle of 17°24'06" a distance of 60.75'; thence N 29°54'30" E a distance of 46.00'; thence S 69°56'26" E a distance of 657.95'; thence S 0°00'53" W a distance of 401.04'; thence S 89°40'56" W a distance of 180.00'; thence N 42°41'24" W a distance of 735.42' to the P.O.B. **and commencing** at the SW/c of S/2 NW/4 Sec. 10 T-18-N R-12-E Indian Base and Meridian, Tulsa County, Oklahoma; thence due N a distance of 594.12'; thence due E a distance of 391.56'; thence on a curve to the left a radius of 300.00', a central angle of 55°04'27" a distance of 288.37'; thence on a curve to the right a radius of 195.00', a central angle of 130°48'25" a distance of 445.19'; thence on a curve to the left a radius of 520.00', a central angle of 39°21'26" a distance of 357.19'; thence on curve to the left a radius of 275.00', a central angle of 77°24'46" a distance of 371.55'; thence on a curve to the right a radius of 485.00', a central angle of 30°11'16" a distance of 255.53' to the P.O.B.; thence continuing on a curve to the right a radius of 485.00', a central angle of 9°27'03" a distance of 80.00'; thence on a curve to the left a radius of 200.00', a central angle of 41°17'29" a distance of 144.13'; thence S 42°41'24" E a distance of 735.42'; thence S 89°40'56" W a distance of 616.34'; thence N 10°50'58" W a distance of 491.30' to the P.O.B.

Case No. 17049

Action Requested:

Variance of the required rear yard from 25' to 10' to permit the addition of a second story to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2604 East 26th Street.

Presentation:

The applicant, **Rodney Ghan**, 2604 East 26th Street, submitted a plot plan and photographs (Exhibit L-1) and explained that he is proposing to expand an existing dwelling by the addition of an upstairs bedroom. He informed that the garage floor is lower than that of the house and the bedroom will be lower than a typical two-story home. The applicant stated that the existing dwelling is encroaching into the required rear yard (16' from property line) and the new construction will not be farther to the rear of the lot than the existing building wall. Mr. Ghan informed that the existing window will be enlarged; however, it is located over the tub and will not give a direct view of the neighbors back yard. Numerous photographs were submitted (Exhibits L-2, L-3, L-5)

Comments and Questions:

Ms. Turnbo asked if the window will remain at the current location, and Mr. Ghan answered in the affirmative. He noted that the new construction will align with the existing wall, which is 16' from the rear lot line, and the application can be changed to reflect 16' instead of 10'.

Mr. Doverspike asked if the neighbors have been advised of the project, and the applicant replied that he distributed plans before the meeting.

In reply to Ms. Abbott, the applicant stated that a small awning over the porch will be replaced with a new covering.

Protestants:

Brad and Diane Fussell, 2551 East 26th Place, stated that they live directly behind the property in question and the proposed addition will elevate the roofline approximately 10'. He pointed out that the new room will loom over their back yard and will invade their privacy and block the view. Mr. Fussell asked the Board to deny the request.

Sara Bailey, 2553 East 26th Place, stated that she lives to the south of the subject property and questioned if approval of the variance would permit other construction within 10' of the property line. She noted that the lot is shallow and the dwelling has the appearance of being very close to the lot line. Ms. Bailey asked the Board to adhere to the setback requirements that have been adopted and deny the request.

Letters of protest (Exhibit L-4) from Ms. Bailey and Mr. Fussell were submitted.

Case No. 17049 (continued)

Mr. Ghan stated that mature trees and the slope of the land prohibit the construction of additional living space at another location on the lot.

Mr. Doverspike advised that, if approved per plan, any further expansion would require additional Board approval.

Mr. Jackere stated that the applicant does not need Board approval to add a second story 35' high on any portion of the dwelling that is not over the 25' setback line.

Applicant's Rebuttal:

Mr. Ghan pointed out that the new building wall will not extend farther toward the neighbors to the rear, and the new construction will improve the property and be an asset to the neighborhood. Mr. Ghan stated that mature trees and the slope of the land prohibit the construction of additional living space at another location on the lot. He pointed out that a second story over the garage will be much lower than it would be at any other point on the dwelling, because the floor of the garage is below ground level.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-1-1 (Abbott, Bolzle, Turnbo, "aye"; Doverspike, "nay"; White, "abstaining"; none "absent") to **APPROVE** a **Variance** of the required rear yard from 25' to 16' to permit the addition of a second story to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to the new construction extending no farther into the required setback than the 1st floor of the dwelling; finding that a second story could be constructed over the dwelling by right that would be higher than the proposed addition over the garage; and finding that approval of the request will not cause substantial detriment to the public good, or violate the spirit, purpose or intent of the Code; on the following described property:

North 90', east 178' Lot 5, Block 1, Woody Crest Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17050

Action Requested:

Special Exception to permit a post office distribution facility in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, located Admiral Place and Highway 169.

Presentation:

The applicant, **John Wingfield**, 8401 Connecticut Avenue, Chevy Chase, MD, was not present.

Case No. 17050 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** without prejudice Case No. 17050.

Mr. Gardner requested that the Board reconsider the previous action to deny the case without prejudice and to continue the application to June 13, 1995.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **RECONSIDER** and **CONTINUE** Case No. 17050 to June 13, 1995.

Case No. 17051

Action Requested:

Variance of the required rear yard from 20' to 12' to permit an addition to an existing house **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 6515 East 27th Street.

Presentation:

The applicant, **Todd Goodwin**, 8033 South 79th East Avenue, submitted a plot plan (Exhibit M-1) and requested permission to construct a 22' by 28' addition to an existing dwelling. Mr. Goodwin informed that a mature tree to the south prevents construction in that direction. He submitted photographs (Exhibit M-2) and informed that similar variances have been granted in the neighborhood.

Protestants:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-2-0 (Abbott, Turnbo, White, "aye"; Bolzle, Doverspike, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required rear yard from 20' to 12' to permit an addition to an existing house - **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that a mature tree prevents expansion to the south; on the following described property:

Lot 24, Block 10, Bowman Acres III, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17052

Action Requested:

Variance of the required setback from the centerline of 41st Street from 100' to 85' to extend previously approved building (Case No. 15938) by 62' to the east - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 16, located 9200 Block of East 41st Street South.

Presentation:

The applicant, **Hibdon Tire Centers, Inc.**, 835 Southeast 30th Street, Oklahoma City, was represented by **Steve Matheny**, who submitted a plot plan (Exhibit N-1) and requested permission to revise a previously approved application to extend the proposed building 62' to the east. He informed that the lot is irregular in shape and construction changes have been made since the preliminary plan was submitted. Mr. Matheny stated that the south boundary borders the Broken Arrow Expressway and the property is abutted to the north by East 41st Street South. He noted that additional curb cuts are not proposed.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of 41st Street from 100' to 85' to extend previously approved building (Case No. 15938) 62' to the east - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 16; per plan submitted; finding that the building extension will not cause substantial detriment to the public good, or violate the spirit and intent of the Code; on the following described property:

Part of Lot 1, Block 7, Alexander Trust Addition Amended, City of Tulsa, Tulsa County, Oklahoma described as follows: beginning at the NW/c said Lot 1, thence E a distance of 245.00'; thence S a distance of 183.34'; thence S 67°01'01" E a distance of 154.11'; thence S 22°58'59" W a distance of 25.00'; thence N 67°01'01" W a distance of 410.00'; thence N 0°10'45" E a distance of 106.45' to the P.O.B. and commencing at the NW/c said Lot 1; thence E a distance of 245.00' to the P.O.B.; thence E a distance of 62.00'; thence S a distance of 209.64'; thence N 67°01'01" W a distance of 67.35'; thence N 183.34' to the P.O.B.

Case No. 17053

Action Requested:

Variance of requirement that corridor development access be principally from an internal collector street - **SECTION 804. ACCESS REQUIREMENTS** - Use Unit 1' located east of the northeast corner of 81st Street and Mingo Road.

Case No. 17053 (continued)

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, informed that the tract in question contains approximately 5 acres and is a part of a larger 40-acre tract (PUD 531). He explained that the principal access of the corridor development is required to be from an internal collector street; however, this low intensity use (Tulsa Teachers Credit Union) and surrounding physical facts would probably warrant its rezoning to office. Mr. Johnsen noted that the collector street issue will be considered in the development of the balance of the PUD.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of requirement that corridor development access be principally from an internal collector street - **SECTION 804. ACCESS REQUIREMENTS** - Use Unit 11, per plan submitted; finding the use to be low intensity, and 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:

Beginning at the SE/c of Government Lot 4; thence westerly a distance of 375'; thence northerly a distance of 580'; thence easterly a distance of 375' thence southerly a distance of 580', to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17054

Action Requested:

Variance of the required setback from State right-of-way from 10' to 0' to permit the installation of a sign - **SECTION 1221.C.1.c. General Use Conditions for Business Signs** - Use Unit 21, located northeast corner of Skelly Drive and South Peoria Avenue.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, was represented by **Terry Howard**, who submitted a plot plan (Exhibit R-1) and requested that the sign in question be installed to align with existing signs to the east. He informed that installation at the required setback would result in the structure being in the parking drive. Mr. Howard noted that the sign is 18' wide with a center pole.

Case No. 17054 (continued)

Comments and Questions:

Mr. Bolzle asked if the sign can be off-set on the pole to minimize the request, and Mr. Howard relied that a cantilevered sign of this size would require a great amount of steel support.

Mr. White asked how the sign in question will compare with the Waffle House sign to the east, and Mr. Howard stated that it will be approximately 10' higher than the Waffle House sign and approximately the same size.

Mr. Howard noted that tree growth to the west blocks the view of the sign in that direction. He pointed out that a sewer line is in place at the corner of the building, and there is very limited space on the lot to install the sign.

After discussion, Mr. Howard requested that the application be continued to allow his client to revise the plan.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 17054 to June 13, 1995.

Case No. 17055

Action Requested:

Variance of the maximum fence height from 8' to 13' - **SECTION 210.B.3. - Permitted Obstructions in Required Yards** - Use Unit 6, located 10157 South 71st East Avenue.

Presentation:

The applicant, **Mike Kelly**, 10157 South 71st East Avenue, submitted a plot plan and photographs (Exhibit S-1) and informed that he has recently moved into a new residence at the above stated location. He requested that he be permitted to elevate the screening fence to 13' between his property and the abutting residence. Mr. Kelly informed that the lot is 8' above grade and the 8' fence does not provide sufficient screening. He requested that the 13' portion be installed only along the back of the dwelling to ensure his privacy, as well as that of his neighbor.

Case No. 17055 (continued)

Comments and Questions:

Mr. Doverspike inquired as to the type of fence proposed, and the applicant replied that an 8' wood fence is already in place and the 13' portion will match the existing one.

Protestants:

Dan Fazzini, 10309 South 69th East Avenue, informed that he lives in the neighboring house referred to by the applicant. He submitted a location map (Exhibit S-4) and letters of opposition (Exhibit S-2) to the variance request. Mr. Fazzini submitted photographs (Exhibit S-1) and pointed out that the entire lot was tree covered when Mr. Kelly purchased the property. He stated that approximately 40 trees have been removed since the construction process began. Mr. Fazzini noted that the proposed fence is very near the rear of his dwelling, but is approximately 250' from Mr. Kelly's home.

Richard Willey, 10310 South 69th East Avenue, stated that the installation of the fence would have a negative impact on property values in the area, and pointed out that the fence would be very near the dwelling to the rear of Mr. Kelly's property.

Applicant's Rebuttal:

Mr. Kelly stated that his neighbor's patio is already elevated 9' and the wall would only be 4' taller. He stated that his swimming pool is only 125' from the existing fence. Mr. Kelly stated that the underground stream on his lot required the installation of a French drain, which caused 78 trees to die. The applicant pointed out that he purchased the property because of the trees and that it was not his intent to remove them. Mr. Kelly stated that he was not aware of any neighborhood opposition. He informed that the retaining wall to the west, which is adjacent to his fence, was constructed in the 17.5' City easement and improvements on that lot are within 3.5' of the property line.

Comments and Questions:

Mr. Bolzle noted that there are numerous lots in the City with substantial differences in elevation that could create privacy issues. He stated that a hardship is not evident and that he does not find this tract to be significantly different from other tracts that experience changes in elevation.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of the maximum fence height from 8' to 13' - **SECTION 210.B.3. - Permitted Obstructions in Required Yards** - Use Unit 6; finding that the applicant failed to present a hardship for the variance request; and finding that a 13' fence would be detrimental to the neighborhood and violate the spirit and intent of the Code; on the following described property:

Case No. 17055 (continued)

SE/4, SW/4, NE/4, NW/4, Section 26, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:45 p.m.

Date Approved

June 13, 1995


Chairman