

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 543
Thursday, July 20, 1989, 1:00 p.m.
Francis F. Campbell Commission Room
Plaza Level of City Hall, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bradley Bolzle Chappelle, Chairman White	Fuller	Gardner Taylor Moore	Jackere, Legal Department Hubbard, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, July 18, 1989, at 11:55 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Bradley, Bolzle, White, "aye"; no "nays"; Chappelle, "abstaining"; Fuller, "absent") to **APPROVE** the Minutes of July 6, 1989.

UNFINISHED BUSINESS

Case No. 15194

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1202 - Request a special exception to allow for a pet cemetery in an RS-1 zoned district, located east of SE/c 15th Street and 93rd East Avenue.

Presentation:

The applicant, **Nolan Gross**, 9402 East 16th Street, Tulsa, Oklahoma, stated that he has previously appeared before the Board regarding a proposed pet cemetery, and has returned with a more detailed site plan (Exhibit A-1) for the project. He informed that Mingo Creek flows to the north and makes a huge bend around his property, which is to be the location of the cemetery. Mr. Gross stated that only the southern one-third of the property will be developed at the present time, and footpaths will be installed through the area. It was noted that the land is presently being used as a pasture, and the existing horse barn will serve as a maintenance building. He stated that a 4' white fence separates the subject property from the residential neighborhood.

Case No. 15194 (continued)

Comments and Questions:

Ms. Bradley asked if there is a house to the west, and the applicant answered in the affirmative, and added that he lives to the south of the proposed site, with no homes to the east.

Ms. Bradley inquired as to the width of the entry and if it is located on the easement, and Mr. Gross replied that the 30' wide entry is located on the street easement. He informed that he would prefer to cover the entry with asphalt, but suggested that Stormwater Management may require gravel.

In response to Ms. Bradley, the applicant replied that 3,000 animals could be buried in the cemetery if the entire plot was utilized. He pointed out that he has been told that there are very few visitors to the existing pet cemeteries, because the animals are usually buried by a survivor of the pet's owner. He pointed out that they are merely carrying out the wishes of a deceased friend or relative and, therefore, do not visit the cemetery.

It was noted by Ms. Bradley that a representative of the Mingo Homeowners Association was present at the previous meeting and stated that residents in the area are opposed to a pet cemetery at this location.

Mr. Chappelle asked Mr. Gross if he has spoken with the president of the Mingo Homeowners Association, and he replied that he has not spoken with anyone from the association.

Ms. Bradley remarked that she is concerned with this type of use in the interior of a residential neighborhood, as well as the fact that there is only one street accessing the property.

There was discussion as to city and state regulations, and the fact that the purchasers of the burial sites do not have deeds to the plots. At this point, Mr. Jackere advised that the Board is only to determine if the proposed use is compatible with the surrounding area, and the city and state agencies will impose restrictions, if there are laws applicable to pet cemeteries.

Mr. Gross stated that the use for the land is limited, and Mr. Jackere stated that the property can be used for residential purposes if the structure is elevated to meet Stormwater Management requirements. Mr. Gross pointed out that all construction activity has ceased in the area, and he does not anticipate its returning.

The applicant pointed out that he has been asked to use the property for softball fields, which would generate a great deal more traffic than a pet cemetery.

Case No. 15194 (continued)

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **DENY** a **Special Exception** (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1202) to allow for a pet cemetery in an RS-1 zoned district; finding that the use is not appropriate at this location, and that the special exception requested violates the spirit and intent of the Code and the Comprehensive Plan; on the following described property:

A certain tract in the SE/4, Section 12, T-19-N, R-13-E of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows, to-wit: Beginning at a point 2008.74' north and 1182.44' West of the SE/c of said Section 12, T-19-N, R-13-E, thence north 636.25', thence east 320.70', thence south 485.90', thence west 290', thence south 150.4', thence west 30.00' to the Point of Beginning, containing LESS AND EXCEPT the north 25' thereof for road right-of-way, containing 3.496 acres more or less, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15198

Action Requested:

Variance - Section 1221.7(B) - Use Conditions for Outdoor Advertising Signs - Use Unit 1221 - Request a variance of the required 1200' spacing between outdoor advertising signs to 975', located 7873 East 38th Street.

Presentation:

The applicant, **Donrey Outdoor Advertising**, 777 East 38th Street, Tulsa, Oklahoma, was represented by **Roger Lister**, who submitted a plot plan (Exhibit B-1) and photographs (Exhibit B-2), requested that Donrey be allowed to move an existing sign approximately 125' east to a new location.

Comments and Questions:

Mr. Chappelle asked Mr. Lister why the sign is to be moved 125', and he replied that the sign company was unable to secure a renewal lease that was adequate to maintain the sign at its present location.

In response to Mr. Gardner, Mr. Lister stated that he would have no objection to removing the sign by January 1, 1995 if the Board is supportive of the application.

Mr. Bolsie asked if he is unable to renew a sign lease at the present location, and Mr. Lister replied that he is not able to renew the lease at a rate that would be profitable to the company.

Case No. 15198 (continued)

Mr. Jackere advised that, if inclined to approve the application, the Board should require that the nonconforming sign be removed by January 1, 1995.

There was Board discussion as to the hardship presented in this case, and it was noted by the applicant that this request is similar to the variance recently granted at Harvard and Broken Arrow Expressway (no additional signs and sign to be removed January 1, 1989).

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** (Section 1221.7(B) - Use Conditions for Outdoor Advertising Signs - Use Unit 1221) of the required 1200' spacing between outdoor advertising signs to 975'; subject to the existing sign being removed before the construction of the sign at the new location; and subject to the newly located sign being removed by January 1, 1995; finding the sign to be nonconforming, and that similar variance requests have been granted in the general area along the Broken Arrow Expressway; on the following described property:

Beginning at the SE/c of the NW/4, SE/4 thence north 796.87' to a point on the south expressway right-of-way, thence on right-of-way 623.05' to a point 530.54' of the east line of the NW/4, SE/4, thence south 1121.09', east 530.54' to the Point of Beginning (LESS the south 30' thereof), Section 23, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15199

Action Requested:

Variance - Section 1221.3(F) - Use Conditions for Business Signs - Use Unit 1221 - Request a variance of setback from the centerline of South Peoria Avenue from 50' to 35' to allow for a pole sign, located NW/c of 48th Street and South Peoria.

Presentation:

Don Beatt, 7707 South Granite, Tulsa, Oklahoma, who represented the Amax Sign Company, submitted a sign plan (Exhibit C-2) and photographs (Exhibit C-3), and requested that Rathbone's be allowed to install a pole sign on the existing pole at the above stated location. He pointed out that the sign will be in the driveway if it is placed at the required 50' setback from Peoria.

Protestants:

Mr. Chappelle stated that one letter of protest (Exhibit C-1) was received by the Board, but no reason for the protest was given.

Case No. 15199 (continued)

Board Action:

On **MOTION** of **WHITE** the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** (Section 1221.3(F) - Use Conditions for Business Signs - Use Unit 1221) of setback from the centerline of South Peoria Avenue from 50' to 35' to allow for a pole sign; per sign plan submitted; subject to the execution of a removal contract; finding that the new sign will be mounted on the existing pole, and that the sign location would be in the driveway if placed at the required 50' setback; on the following described property;

Lot 4, Block 1, Evergreen Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15200

Action Requested:

Special Exception - Section 730 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow for Use Unit 17 (automotive and allied activities) in a CS zoned district, located SE/c Pine and North Lewis.

Presentation:

The applicant, **Adesegun Ogunseye**, 10661 East 31st Street, Tulsa, Oklahoma, requested permission to restore and repair automobiles at the above stated location. It was noted by the applicant that the 15,000 sq ft shop area, as well as 5000 sq ft of upstairs storage, would allow the entire operation to be conducted inside the building.

Comments and Questions:

Mr. Gardner asked the applicant if he is currently operating a business in the vicinity of 31st Street and Mingo Valley Expressway, and he replied that he is moving the business from the present location, 10661 East 31st Street, to a building near Pine and North Lewis. He stated that the business is experiencing a lot of vandalism at this time, and the new location provides enough space to store all of the automobiles inside. Mr. Gardner asked if the entire business will be moved to the proposed site, and Mr. Ogunseye answered in the affirmative.

Ms. Bradley commented that there are numerous uses in the area that are similar to Mr. Ogunseye's business, and inquired as to the number of cars that will be kept at this location. The applicant stated that his inventory will range from 5 to 21 automobiles.

Ms. White asked if all work will be completed inside the building, and the applicant replied that all repairs will be made inside.

In response to Mr. Gardner, the applicant replied that all parts and automobiles awaiting repairs will be stored inside, but restored cars for sale will be parked on the lot during the daytime hours only.

Case No. 15200 (continued)

Mr. Bolzle asked if tires will be stored on the lot, and the applicant replied that there will be no outside storage.

Protestants:

C. E. Kimball, 1417 North Lewis Place, Tulsa, Oklahoma, stated that the neighbors in the area are concerned that the property might become a junk yard. He commented that there is a wall in place on the east and south sides of the lots and asked that this wall remain in place and be maintained, if the application is approved. It was noted that the doors on the east and north sides of the building have been used for loading and unloading by previous occupants, which resulted in the street being blocked occasionally.

Additional Comments:

Ms. White asked Mr. Kimball if he would object to the proposed use if there is no outside storage, and he replied that he would have no objection, but is not sure how others in the neighborhood would feel about the matter.

Mr. Kimball asked if the property to the south of the building in question is zoned residential, and Mr. Taylor informed that the lots along Lewis are commercial, while the lots on Lewis Place are zoned residential. He pointed out that a parking lot was approved in 1954 for the southeast quarter (RS-3) of the tract.

Mr. Ogunseye reiterated that every vehicle will be parked inside the building when the business closes in the evening.

Mr. Gardner asked if the cars that will be outside the building to be sold will all be operable, and the applicant answered in the affirmative.

Protestants:

Bob Lees, 1441 North Lewis Place, Tulsa, Oklahoma, stated that he lives to the east of the property in question and asked that the wall located on the boundary be left in place and maintained. He pointed out that the wall has been removed on two different occasions and, although it was replaced, has never been properly maintained.

Ms. Bradley pointed out to Mr. Lees that the Code requires that the screening fence be left in place.

Karen Cole, 1437 North Lewis Place, Tulsa, Oklahoma, stated that she lives across the street from the subject property, and would welcome a business at this location if there will be no junk on the lot.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** (Section 730 - Principal Uses Permitted in Commercial Districts - Use Unit 1217) to allow for Use Unit 17 (automobile sales and restoration) in a CS zoned

Case No. 15200 (continued)

district; subject to no outside storage of parts or inoperable automobiles; and subject to all work being done inside the building; finding that there are mixed zoning classifications in the area, and the automobile restoration and repair business, as presented, will not be detrimental to the surrounding neighborhood, and will be in harmony with the spirit and intent of the Code: on the following described property:

Lots 1, 2, 3, 4, 5, 6, 19, 20, 21, 22, 23 and 24, Block 2, Bellvue Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15201

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209 - Request a special exception to allow for an existing mobile home in an RS-3 zoned district.

Variance - Section 440.6(a) - Special Exception Requirements - Use Unit 1209 - Request a variance of the time restriction for a mobile home from one year to permanently, located 2324 North 129th East Avenue.

Presentation:

The applicant, **Kathy Smittle Cooper**, 2324 North 129th East Avenue, Tulsa, Oklahoma, requested permission to locate her mobile home permanently at the above stated address. She informed that the mobile home has been at the present location since 1986.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1209) to allow for an existing mobile home in an RS-3 zoned district; and to **APPROVE** a **Variance** (Section 440.6(a) - Special Exception Requirements - Use Unit 1209) of the time restriction for a mobile home from one year to permanently; finding that the mobile home has been at the present location for approximately three years and has proved to be compatible with the surrounding neighborhood; on the following described property:

A tract of land commencing at the NE/c of the NE/4, SE/4 of Section 29, T-20-N, R-14-E of the Indian Base and Meridian, thence south at right angles for a distance of 146.64'; thence west at right angles for a distance of 313'; thence north at right angles for a distance of 146.64'; thence east at right angles for a distance of 313' to the point of beginning; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15202

Action Requested:

Variance - Section 1221.3(B.3, F) - General Use Condition for Business Signs - Use Unit 1221 - Request a variance of the required 200' setback from an R District to 35' to allow for a flashing sign and a variance of setback from the centerline of 11th Street from 50' to 40' to allow for a sign, located SE/c 11th and Lewis.

Comments and Questions:

Mr. Taylor noted that Jim Garrlott, Sign Inspector, requested that he make the Board aware of the fact that the proposed sign is a message board to be used for onsite advertising only.

Presentation:

The applicant, **Allen Twedt**, 2700 West Freeport, Broken Arrow, Oklahoma, who represented Cox Chrysler Plymouth, submitted a sign plan (Exhibit D-1) for a new advertising sign. He informed that the sign in question will contain 160 sq ft of advertising space and will replace an existing 10' by 26' billboard (Exhibit D-2). Mr. Twedt pointed out that the proposed sign will be covered with a sun screen, which prevents the lighting from dispersing out over the neighborhood. It was noted that the new sign will be erected at the same location and will be the same height as the existing billboard, but will be reduced in size by 100 sq ft. A sketch (Exhibit D-3) was submitted by the applicant.

Comments and Questions:

Mr. Gardner inquired as to the method of changing the message on the sign, and Mr. Twedt replied that it is controlled by a computerized mechanism, but the sign is not a traveling message sign. He pointed out that a complete thought sequence is displayed in a matter of seconds. Mr. Gardner asked if the message flashes on and off in a determined number of seconds, and the applicant replied that the sign does not flash, but does have continual action. He explained that a certain portion of the message may roll down and the second message be overtaken by a roll up sequence.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** (Section 1221.3(B.3, F) - General Use Condition for Business Signs - Use Unit 1221) of the required 200' setback from an R District to 35' to allow for a changing message sign and a variance of setback from the centerline of 11th Street from 50' to 40' to allow for a sign; per plan submitted (no traveling or flashing message); subject to existing billboard sign being removed; finding that although there is continual motion on the sign, it is not an "on and off" flashing sign, and is not a traveling sign; and finding that the new business sign will be smaller than the currently existing billboard, and that guidelines for regulating computerized signs are not contained in the Code; on the following described property:

Case No. 15202 (continued)

Lots 1, 22, 23, 24, Block 4, Boswell Addition, City of Tulsa,
Tulsa County, Oklahoma.

Case No. 15203

Action Requested:

Special Exception - Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1205 - Request a special exception to allow for an existing church and related uses in an AG zoned district, located 8833 - 8835 East 91st Street.

Presentation:

The applicant, **James Dixon**, 704 Baton Rouge, Broken Arrow, Oklahoma, who represented Church on the Rock, informed that the church has been meeting at the present location for approximately two years and has grown to the point that additional classroom space is required. Mr. Dixon stated that, while going through the necessary steps to get the mobile home for this use, it was discovered that church use had not been approved for the property. The applicant noted that the church is located in the building which was previously occupied by the Gaslight Dinner Theater. A plot plan (Exhibit E-1) was submitted.

Comments and Questions:

Ms. Bradley asked Mr. Dixon to comment on the requested related uses, and he replied that the church will only be engaged in normal church activities and does not plan to operate a private school on the premises.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Special Exception** (Section 310 - Principal Uses Permitted In Agriculture Districts - Use Unit 1205) to allow for an existing church and related uses in an AG zoned district; subject to the property being restricted to church use only, with no school being allowed to operate on the premises; finding that the church has been meeting at this location for approximately two years and has proved to be compatible with the area; on the following described property:

Beginning at the SW/c, E/2, SE/4, SW/4, thence north 345', east 230', south 45', east 100', south 300', thence west to the Point of Beginning, Section 13, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15205

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206 - Request a variance of the required side yard setback from 10' to 8', and of the required rear yard setback from 25' to 5' to allow for a proposed dwelling, located 125 East 26th Place.

Presentation:

The applicant, **Pat Fox**, 2250 East 73rd Street, Tulsa, Oklahoma, submitted a site plan (Exhibit F-1), and stated that he is representing the owner of the property in question. He informed that a new house is proposed for the lot, which abuts a small 2' portion of land to the east, plus a 20' by 20' area in the northeast corner, both of which are owned by Oklahoma Natural Gas Company (ONG). It was also noted that a small stucco building is located on the ONG property. Mr. Fox stated that he is requesting a variance of the required setbacks at the two points where the proposed residence will abut the ONG property in the northeast corner and to the east.

Comments and Questions:

Mr. Bolzle inquired as to the use of the small building owned by ONG, and the applicant replied that a pressure valve is enclosed in the building. Mr. Fox informed that the small structure has been constructed in the approximate center of the 20' by 20' square of land. Mr. Bolzle asked if the back of the new dwelling will be approximately 10' to 12' from the ONG building, and Mr. Fox answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206) of the required side yard setback from 10' to 8', and of the required rear yard setback from 25' to 5' to allow for a proposed dwelling; per plot plan submitted; finding that a 2' strip along the abutting east boundary and the 20' by 20' plot (with structure) in the northeast corner are owned and used by ONG;; and that the granting of the variance request will not cause substantial detriment to the public good or impair the spirit, purposes and intent of the Code; on the following described property:

The west 30' of the north 20', and the west 48' of the south 120' of Lot 10, and the east 15' of Lot 14, Block 14, III Amended Plat of Riverside Drive Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15207

Action Requested:

Variance - Section 1211.3 - Use Conditions - Use Unit 1211 - Request a variance of the required screening along the west property line.

Variance - Section 1211.4 - Parking and Loading Requirements - Use Unit 1211 - Request a variance of the required number of parking spaces.

Variance - Section 1320(D) - General Requirements - Use Unit 1211 - Request a variance to allow for off-site parking, located 1718 South Cheyenne.

Presentation:

The applicant, **Michael Taylor**, 1625 South Boston, Tulsa, Oklahoma, stated that he is an attorney and is in the process of renovating the subject property for his office. He explained that the three-story home, along with a detached three-car garage, was constructed in 1913 and has over 6000 sq ft of floor space. It was noted that the garage has also been converted to additional office space. Photographs (Exhibit G-2) were submitted. Mr. Taylor stated that he is attempting to maintain the character of the older home, both interior and exterior. He explained that the house is elevated, with a brick retaining wall on three sides, and a decorative iron fence surrounds the property. He pointed out that the west boundary is heavily landscaped on his side of the property, as well as on his neighbors property, and a screening fence would detract from the appearance of both lots. Mr. Taylor informed that he has acquired 18 parking spaces on the south end of the parking lot across the street. He pointed out that it has always been his intent to park across the street in the Mapco parking lot, as there are only four available onsite parking spaces. Mr. Taylor submitted a parking agreement (Exhibit G-1) for 15 years, which stated that the required parking spaces will be made available for him to rent, unless the property is sold and a building is constructed on the site.

Comments and Questions:

In response to Ms. Bradley's question concerning parking rights if the property is sold, Mr. Jackere stated that, if the parking agreement is filed of record, the sale of the property is subject to the lease for at least five years. The applicant commented that it is his understanding that the parking lease agreement is binding on his successor, as well as any future owner of the parking lot. After reviewing the lease agreement, Mr. Jackere noted that there is a condition in the agreement which states that the lease is terminable at the sale of the property. He pointed out that the building on the lot is large and the property is zoned for office use; however, the property cannot be utilized for offices without acquiring additional off-site parking spaces, which imposes a hardship on the applicant.

Case No. 15207 (continued)

There was discussion as to the number of parking spaces provided on the property, and Mr. Taylor pointed out that a maximum of five cars would be able to park on the subject property.

Ms. White asked the applicant if his firm will occupy the entire building, and he answered in the affirmative. He stated that he plans to have some tenants in the garage when it is completed, and will ultimately move his offices to this area. Mr. Taylor informed that there are presently 13 employees working with his firm.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** (Section 1211.3 - Use Conditions - Use Unit 1211) of the required screening along the west property line; to **APPROVE** a **Variance** (Section 1211.4 - Parking and Loading Requirements - Use Unit 1211) of the required number of parking spaces; and to **APPROVE** a **Variance** (Section 1320(D) - General Requirements - Use Unit 1211) to allow for 18 off-site parking spaces; finding that four on-site parking spaces are provided; finding that the the west property line is screened by a dense growth of trees and shrubbery; and finding a hardship imposed on the applicant by the fact that no new buildings are being requested and that the office building is located in a formerly residentially zoned area, with limited on-site parking available; and that the granting of the requests will not be detrimental to the area; on the following described property:

Lots 4, 5 and 6, Block 11, Stonebraker Heights, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 2:15 p.m.

Date Approved

8-3-89


Chairman