

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 548
Thursday, October 5, 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
Bolzle Chappelle Fuller White, Chairman	Bradley	Jones Moore Smith	Jackere, Legal Department Hubbard, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, October 3, 1989, at 2:10 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, Bradley, "absent") to **CONTINUE** approval of the minutes for September 28, 1989 to October 19, 1989.

UNFINISHED BUSINESS

Case No. 15232

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in the Commercial Districts - Use Unit 1217 - Request a variance of the required 150' frontage, located east of SE/c 71st Street and South 92nd East Avenue.

Presentation:

The applicant, **Jerry Wilson**, was not present.

Comments and Questions:

Mr. Jones explained that the applicant was previously granted a variance of the required 150' frontage, with the balance of the application being continued to this date in order that the applicant could advertise for additional sign relief. Mr. Jones stated that he contacted Mr. Wilson by phone and he requested that the case be continued to November 2, 1989.

Protestants: None.

Case No. 15232 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, Chappelle, "absent") to **CONTINUE** Case No. 15232 to November 2, 1989, as requested by the applicant.

Case No. 15250

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential District - Use Unit 1206 - Request a variance of the required 25' rear yard setback to 5' to permit an addition to an existing residence, located 7157 South Evanston.

Comments and Questions:

Mr. Jones stated that Staff has received a letter (Exhibit A-1) from the applicant, requesting that Case No. 15250 be continued to October 19, 1989.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, Chappelle, "absent") to **CONTINUE** Case No. 15250 to October 19, 1989, as requested by the applicant.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15264

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206 - Request a variance of the required front yard setback from 30' to 24', a variance of the required 25' rear yard to 20' and a variance of the required 10' and 5' side yards to 8' and 4' to permit a new dwelling, located 1776 East 30th Street.

Presentation:

The application, which was filed by **Bryan McCracken**, was presented by **Roy Johnsen**, 324 Main Mall, Tulsa, Oklahoma, who stated that the applicant has sold the subject property to his client. He informed that the application was filed before the plans were finalized, and the variance of the required front yard setback is no longer needed. Mr. Johnsen stated that the lot more than meets the size requirements for an RS-2 lot. He submitted a plat of survey, plot plan and elevations (Exhibit B-1), and pointed out that the side lot lines are not perpendicular to 30th Street, which forms the northern boundary of the property. Mr. Johnsen stated that his client builds

Case No. 15264 (continued)

large expensive homes and is proposing to build one of similar quality on this lot, while attempting to save two large trees and avoid filling the back portion of the lot. It was noted that the lot is 130' deep on one side and 135.38' on the other side, and these lot lines are not parallel with each other or perpendicular to the street. He stated that the Code requires a 10' side yard setback on one side and 5' on the other, and the structure complies with these setbacks except for a short distance of the building wall (less than 20'), which encroaches 1.32'. Mr. Johnsen informed that a corner of the back of the house extends 3.73' into the 25' building setback, with 6" added for brick. It was noted by Mr. Johnsen that the layout of the house could be reversed, but this would require removal of one large tree in front and land fill in the rear portion of the lot. He further noted that the home of Mr. Gaberino, which is to the immediate west, is approximately 8' from the property line and the proposed house would be closer to his residence if the plan is reversed. Mr. Johnsen pointed out that the variances are minor, and asked the Board to approve the application. A drawing (Exhibit B-4) of the proposed structure was submitted.

Protestants:

Kent Zirkle, 3020 South Wheeling, Tulsa, Oklahoma, submitted photographs (Exhibit B-3) and stated that Forest Hills was platted and developed in the late 20's and early 30's, with large lots and large houses. He pointed out that the front setback at that time was 35' to 40', with 40' rear setbacks. Mr. Zirkle stated that the lot at this location has been split, and the construction of the proposed large home on the small lot will be detrimental to the neighborhood. He stated that the applicant has not presented a hardship for the variance request.

Mr. Chappelle inquired as to the average square footage of homes in the area, and Mr. Zirkle stated that his home has 4500 sq ft of floor space, but the average house in the area is approximately 3500 sq ft. He informed that the smallest lot in the addition is 90' wide.

Mr. Chappelle pointed out that in order to construct a house comparable in size to those in the area, it appears that, due to the size of the lot, the applicant will require some type of relief from the Board.

Mr. Fuller asked if the houses in the neighborhood with similar square footage have larger lots, and Mr. Zirkle answered in the affirmative.

Ms. White noted that the proposed house will be in compliance with the Code requirements for livability space and front yard setback. She pointed out that the side yard setback requirements are the only issues the Board can address. She asked Mr. Zirkle when the lot split occurred, and he replied that the large lot was split in 1988.

Case No. 15264 (continued)

Kevin Coutant, 1000 Atlas Life Building, Tulsa, Oklahoma, submitted a petition of opposition (Exhibit B-2), and stated that he is representing John and Marjory Gaberino, property owners to the southwest of the lot in question. He pointed out that the proposed structure is not consistent with the development in the neighborhood, and that the applicant has not presented a hardship for the variance requests. He noted that the property in question is zoned RS-2, but the property immediately across the street, as well as other lots in the general vicinity, are zoned RS-1. Mr. Coutant asked the Board to preserve the character of the neighborhood and deny the variance requests.

John Gaberino, 1764 East 30th Street, Tulsa, Oklahoma, asked the Board to acknowledge the presence of numerous protesting property owners in the audience. He noted that the construction of the large house on the small lot will alter the character of the neighborhood.

Carol Ashcraft, 1754 East 30th Street, Tulsa, Oklahoma, stated that a precedent will be set in the neighborhood if the variance is approved. She asked the Board to deny the request and protect the property owners in the area.

Applicant's Rebuttal:

Mr. Johnsen pointed out that he is requesting minor variances on the side yard setback requirements, and noted that the building wall on one side is irregular in shape and there will be a small side yard setback encroachment. Mr. Johnsen further noted that most of the proposed house will exceed the rear yard setback requirement, and exceeds that of Mr. Zirkle. He pointed out that the issue of overbuilding seems to be the major complaint of the area residents; however, the house will be in compliance with the Code regarding livability space. Mr. Johnsen stated that the fact that the lot has skewed lot lines and is low on one side, which would require filling, is the hardship for this case. He pointed out that there have been eleven variances in similar matters granted by the Board in this immediate area.

Additional Comments:

Mr. Bolzle asked Mr. Johnsen if the structure could meet all requirements if the plan is flipped, and he replied that it could meet all requirements, but a fill would be required in the back yard and the removal of a tree.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, White, "aye"; no "nays"; Fuller, "abstaining"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206) of the required front yard setback from 30' to 24', a variance of the required 25' rear yard to 21.27', plus 6" for brick, and a variance of the required 10' and 5' side yards to 8' and 4' to permit a new dwelling; per plot plan submitted; finding a hardship demonstrated by the curvature of the street and the irregular shape of the lot; and finding that there are other houses in the area with similar rear yard setbacks; on the following described property: 10.05.89:548(4)

Case No. 15264 (continued)

That part of Lot 1, Block 17, Forest Hills, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, described as beginning at a point on the southeasterly line thereof 90.10' southwesterly of the northeast corner thereof, thence southwesterly for 84.52' to the SE/c thereof, thence northwesterly along the southwesterly line thereof for 135.38' to the southwest corner thereof, thence northeasterly on a curve to the left having a radius of 301.79' for 83.96', thence southeasterly and parallel with the southwesterly line of said Lot 1 for 130.12' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15253

Action Requested:

Variance - Section 1221.3 A - General Use Conditions for Business Signs - Use Unit 1221 - Request a variance to allow an existing on-premise sign within the 10' setback within an "R" zoned district which is on expressway, located at 2615 South Harvard.

Presentation:

The applicant, Bill Stokely, was represented by David Tracy, 1701 South Boston, Tulsa, Oklahoma, who submitted photographs (Exhibit C-1), and stated that Robert Spraker is the owner of the property in question. He informed that the business sign for Mr. Spraker's business was approved by the Board in May of 1989. Mr. Tracy stated that his client requested a variance to remove an outdoor advertising sign and replace it with the business sign that is currently located on the property. It was noted that the outdoor advertising sign was removed and replaced with the business sign; however, after installation it was discovered that a variance of the 10' setback requirement was needed. Mr. Tracy stated that all applications for sign permits since July of 1985 have had the 10' setback requirement, but prior to July of 1985 the ordinance stated that all signs were required to be set back 40' from an R District. He pointed out that almost all freeway right-of-way in the City has an R zoning classification, including the portion along the subject property. He informed that the ten photographs that were previously exhibited are those of existing signs along the Broken Arrow Expressway, as well as those along the Mingo Valley extension, which is opening soon. He pointed out that all of these signs are within 10' of the right-of-way, and were permitted before 1985; however, they are all within 10' of the right-of-way. Mr. Tracy stated that the 40' setback was universally ignored before the 10' setback was required. A plot plan (Exhibit C-2) was submitted.

Case No. 15253 (continued)

Comments and Questions:

Mr. Jackere asked Mr. Tracy if the photographs represent signs that were built prior to 1985, and he answered in the affirmative.

Mr. Jackere advised the Board that a legal opinion was issued regarding setbacks for signs and other structures from residential districts. He pointed out that all highways are zoned residential and there are other inconsistencies in the Code that are created by that classification. It was further noted that it is the opinion of the City Legal Department, which serves as the law for the Inspections Department, that the setbacks along highways, with a residential zoning classification, were not in effect.

Mr. Chappelle asked if the sign in question is the easternmost sign, and Mr. Tracy replied that the subject sign is the westernmost sign.

Mr. Tracy stated that, evidently the purpose of the 10' setback, is to avoid accidental encroachment on freeway right-of-way, and it has been firmly established that both signs are 2' to 3' from the highway right-of-way. It was noted that one plot plan was submitted before the January application, which showed the 10' setback; however, the Board did not have an opportunity to view the plot plan that was submitted in May, which did not show the 10' setback.

Mr. Tracy informed the Board that there was some confusion at the August hearing because the application requested a variance of the 10' setback for business signs, as well as outdoor advertising signs. He pointed out that the previous notice only mentioned outdoor advertising signs, which necessitated this additional hearing regarding a business sign. Mr. Tracy requested that the Board waive the application fee for this hearing.

Mr. Jones advised that the Board could determine if there was an error in the notice that was mailed out; however, that item will require advertising and can be added to the next agenda if necessary.

Mr. Fuller inquired as to the distance the signs encroach into the 10' setback, and he replied that one edge of the Spraker sign is 1.85' from the right-of-way, and the other corner is 3.23'.

Protestants: None.

Board Action:

Mr. Bolzle's motion to approve the variance request, subject to removal of the sign by January 1, 1995 was withdrawn after a discussion with Mr. Jackere. It was determined by legal that the removal date will not apply to business signs.

Case No. 15253 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 1221.3 A - General Use Conditions for Business Signs - Use Unit 1221) to allow an existing on-premise sign within the 10' setback within an "R" zoned district, which is an expressway; on the following described property:

Lot 14, Block 6, Kirkmore Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15255

Action Requested:

Variance - Section 420.2 A (3) Accessory Use Conditions - Use Unit 1206 - Request a variance of the required 3 feet setback from an interior lot line to permit an existing detached accessory building, 2231 E. 24th Street.

Presentation:

The applicant, **Dr. Robert Ingram**, 2231 East 24th Street, Tulsa, Oklahoma, who submitted a plot plan (Exhibit D-1) and photographs (Exhibit D-2), stated that he removed two old storage sheds and constructed a new building on the existing slab. He pointed out that the new storage facility was constructed on the lot line, as was the old building. Mr. Ingram stated that his neighbors are supportive of the application.

Protestants:

Tom Waugh, 2216 East 26th Place, Tulsa, Oklahoma, stated that he is owner of the property to the north and stated that he is not protesting the construction of the building on the lot line, but is protesting the fact that the building encroaches on his property. He explained that, according to White Survey, the building is .2' over the property line, with the eaves overhanging an additional 2'.

Comments and Questions:

Ms. White informed Mr. Waugh that the Board has no jurisdiction in the matter of building over the lot line.

Mr. Waugh stated that he objects to the water run-off on his property, and the fact that the applicant constructed the building without notifying him. He informed that his mother-in-law lives on his property at this location, and he was not aware the construction was underway.

Carol Waugh, 2216 East 26th Place, Tulsa, Oklahoma, stated that the applicant built the building without notice to them, and suggested that the application be continued until the drainage can be reviewed. She pointed out that the eaves of the previous building did not overhang their property as far as those of the existing building.

Case No. 15255 (continued)

Interested Parties:

John Conway, 2234 East 24th Street, Tulsa, Oklahoma, stated that he lives across the street from the applicant, and is supportive of the application. He pointed out that the existing structure is a vast improvement over the old storage sheds.

Mr. Waugh stated that the applicant seems to have gotten approval from all surrounding property owners, except the one where the encroachment occurs and the one that is directly affected.

Applicant's Rebuttal:

Mr. Ingram stated that he attempted to contact Mr. Waugh's mother-in-law, but she was out of town during the construction.

Ms. White asked if there is guttering in place along the boundary line, and the applicant replied that there is no guttering.

Additional Comments:

Mr. Chappelle remarked that it appears that the control of water runoff on the neighboring property would be impossible, and a hardship has not been presented by the applicant.

Ms. White asked Mr. Jackere if the replacement of a nonconforming structure would be allowed, and he replied that the Code does not permit this by right, but the Board can grant a variance.

Mr. Bolzle remarked that he feels the Board would not have approved the application if they had had an opportunity to review it prior to construction, due to the inability of the applicant to maintain the structure or provide for the water runoff.

Board Action:

On MOTION of CHAPPELLE, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to DENY a Variance (Section 420.2 A (3) Accessory Use Conditions - Use Unit 1206) of the required 3 feet setback from an interior lot line to permit an existing detached accessory building; finding that a hardship was not demonstrated; and finding that the construction on the lot line would not allow the applicant to control water runoff on the abutting property, or properly maintain the building; on the following described property:

Lot 18, Block 1, Wildwood Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15256

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In the Residential Districts - Use Unit 1206 - Request a variance of the required 5' Side yard setback to 6 Inches to permit an existing carport, located at 1724 East 29th Street.

Presentation:

The applicant, **Liberty Construction of Tulsa**, was represented by **John Weiss**, 6333 South Peoria, Tulsa, Oklahoma, stated that a carport was constructed on the property in 1942. He noted that the house was remodeled and a new carport constructed, with drainage directed away from the neighbor's property. Mr. Weiss explained that the carport is 6" away from a 7' high fence that is constructed on the property line.

Protestants: None.

Comments and Questions:

Ms. White stated that she viewed the property and the carport is added to the side of a two-car garage.

Mr. Chappelle asked if the carport is larger than the previous one, and Mr. Weiss stated that the new posts were set in exactly the same location as the old ones, and the drainage was changed to the back yard.

Mr. Fuller inquired as to how long the new carport has been built, and Mr. Weiss replied that it has been in place approximately one year.

Mr. Jones stated that the original carport was nonconforming; however, the altering of the structure would have required Board approval.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In the Residential Districts - Use Unit 1206) of the required 5' side yard setback to 6" to permit an existing carport; subject to the new carport being at the same location and the same size as the one previously on the property; finding that a carport has been in place at this location for many years; on the following described property:

East 52.5' of Lot 4, and Lot 3, Block 12, Forest Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15257

Action Requested:

Variance - Section 1225.4 - Off - Street Parking and Loading Requirements - Request a variance of the required Number of parking spaces to permit off - site parking, located 835 South Xanthus Place.

Presentation:

The applicant, **Frank Moskowitz**, was represented by **Bill Stoskopf**, 1717 South Boulder, Tulsa, Oklahoma, who submitted a site plan (Exhibit E-1), and explained that there is an error in the legal description that appears on the agenda, which may be a problem in hearing the case. He informed that the legal description on the agenda is Lots 4 and 5, Block 2, and the south 100' of Lot 14, Clover Ridge Addition, with the correct legal being the south 100' of Lot 13.

Mr. Jones stated that the application was advertised incorrectly, and suggested that the case be readvertised.

Mr. Stoskopf stated that the variance in the parking requirement is needed to execute a tie contract, based on improvements being made at 835 South Xanthus Place, the old Looboyle Building. He noted that the property has been sold, contingent on Board approval of this application. Mr. Stoskopf stated that time is of the essence in this matter.

Mr. Jones advised that property that has not been advertised cannot be considered by the Board.

Ms. White asked Mr. Stoskopf if consideration of the advertised portion of the property will give his client sufficient relief to complete the business transaction.

Mr. Jackere asked if the Looboyle Building is on Lots 4 and 5 of Block 2, with the parking being tied to Lot 13, and Mr. Stoskopf answered in the affirmative.

Mr. Jackere asked Ms. Hubbard if parking is permitted by right on Lot 13, and she replied that parking is permitted by right on that lot.

Mr. Stoskopf pointed out that the reason for appearing before the Board is because the parking is inadequate for the change in use.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 1225.4 - Off - Street Parking and Loading Requirements) of the required number of parking

Case No. 15257 (continued)

spaces to permit off-site parking; per plan submitted; subject to the execution of a tie contract on the south 105.45' of Lot 13 and the property containing the principal use; on the following described property:

Lots 4 and 5, Block 2, Fleetwood Industrial, and the south 100' of Lot 14, Block 1, Clover Ridge, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15259

Action Requested:

Special Exception - Section 710 - Permitted Uses in the Commercial Districts and Section 720 - Accessory Use Conditions - Use Unit 1206 - Request a special exception to permit a pole barn in conjunction with a single-family residence in a CS zoned district, located 14336 East 11th Street South.

Presentation:

The applicant, **Andy Flynn**, 1202 South 141st East Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit F-1), and request permission to construct a pole barn (846 sq ft) for storage of a recreational vehicle.

Comments and Questions:

Ms. White asked if the building will be used in conjunction with the business to the east, and the applicant replied that it will be used only for his private storage.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Boizle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 710 - Permitted Uses in the Commercial Districts and Section 720 - Accessory Use Conditions - Use Unit 1206) to permit a pole barn in conjunction with a single-family residence in a CS zoned district; per plan submitted; finding that the lot is large enough to accommodate the residence and storage facility; and finding that the granting of the special exception request will not be detrimental to the area; on the following described property:

Lot 2, Block 1, Maudlin Resubdivision, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15260

Action Requested:

Variance - Section 240.2(E) - Permitted Yard Obstructions - Use Unit 1206 - Request a variance to permit more than 20% coverage of a rear yard by a garage, located 2551 South Cincinnati.

Case No. 15260 (continued)

Presentation:

The applicant, **Renaissance, Inc.**, was represented by **Tom Nicholas**, 2551 South Cincinnati, Tulsa, Oklahoma, who submitted a plot plan (Exhibit N-1), and stated that a new house was constructed at the above stated address. He explained that he is not a home builder by trade and was not aware that two separate permits were required for the home and the garage. Mr. Nicholas noted that the garage and house were both on the plans that were submitted for the Building Permit; however, after both structures were under construction the frame inspector notified him that a separate permit was required for the garage (20' by 22').

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 240.2(E) - Permitted Yard Obstructions - Use Unit 1206) to permit more than 20% coverage of a rear yard by a garage; per plan submitted; finding a hardship demonstrated by the irregular shape of the lot, and the fact that the lot does not meet the minimum lot size requirements; finding that the granting of the variance request will not cause substantial detriment to the surrounding neighborhood and will not impair the spirit, purposes or intent of the Code; on the following described property:

Lot 2, Block 7, Sunset Terrace, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15261

Action Requested:

Special Exception - Section 410 - Permitted Uses In the Residential Districts - Use Unit 1202 - Request a special exception to permit a Christmas tree sales lot in a RS-3 District each year the Lions Club continues the use, located SW/c East 31st Street and Skelly Drive.

Presentation:

The applicant, **Stephen Guy**, was represented by **Ron Kerr**, 1330 East 33rd Street, Tulsa, Oklahoma, president of the Brookside Lions Club, who asked permission to continue yearly Christmas tree sales on the vacant lot at the above stated location.

Comments and Questions:

In response to Mr. Bolzle, Mr. Kerr stated that the Club has been operating the sales lot at this location for approximately six years.

Case No. 15261 (continued)

Interested Parties:

Terry Wilson, Chairman, District 5 Planning Team, and Vice Chairman of the Whitney Homeowners Association, informed that he has spoken with the Lions Club concerning the operation in question, and is not opposing the application. Mr. Wilson stated that he is appearing before the Board because he has a concern with the property in question, and would also like to address the Board regarding procedures of the Board of Adjustment concerning Planning Team members.

There was discussion among Staff, Mr. Jackere and the Board members regarding the request for addressing communication procedures between the Board and the Planning Team members. It was decided that the Board would hear Mr. Wilson's concerns at the conclusion of the meeting.

Mr. Wilson stated that the residents in the area surrounding the subject property are concerned with any commercial precedent that might be set at this location. He suggested that, although not opposed to the intended use by the Lions Club, the proposed use might be used as a precedent in future proceedings to allow permanent sales on the property. He asked that Board approval for the application contain a stipulation that the approval would not be used in the future in setting a precedent for commercial use of the subject property.

Mr. Fuller asked Mr. Wilson if he is a resident of the area, and he replied that he lives at 7728 East 30th Street, approximately two blocks north of the property in question.

Mr. Jackere advised that zoning is related to land use and, if the application is approved, anyone could sell trees at this location.

In response to Mr. Bolzle, Mr. Jones pointed out that Christmas tree sales is appropriate at this time, but if the triangular tract develops, the use may not be appropriate in the future.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 410 - Permitted Uses in the Residential Districts - Use Unit 1202) to permit a Christmas tree sales lot in an RS-3 District; on the following described property:

Part of the NW/4, NE/4, NE/4 and the E/2, NW/4, NE/4, described as beginning 35' south and 499' east of the NW/c, E/2, NW/4, NE/4, thence east to a point 1189.91' west and 35' south of the NE/c, NE/4, thence south 15', thence east 97', thence southeast 11.76', thence southwest 500', thence north to the point of beginning, in Section 23, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15262

Action Requested:

Variance - Section 930 - Bulk and Area Requirements In the Industrial Districts - Use Unit 1225 - Request a variance of the required 75' setback from an abutting "R" district to permit the construction of a new building, located 6767 East Virgin.

Presentation:

The applicant, **Dana Hutson**, 1540 North 107th East Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit G-1), and stated that the abutting property to the north of the subject tract is owned by the City of Tulsa. He explained that the original building was constructed in 1982, and an addition was approved in 1986. Mr. Hutson stated that the building in question will be located to the west of the existing structures.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Boizie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 930 - Bulk and Area Requirements In the Industrial Districts - Use Unit 1225) of the required 75' setback from an abutting R District to permit the construction of a new building; per plot plan submitted; finding a hardship imposed by the irregular shape of the lot and required setbacks from the abutting R District and Virgin Street; on the following described property:

Lot 1, Block 1, Newman Brothers Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15263

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1202 - Requests a special exception to allow for an outdoor Christmas tree sales lot in a CS zoned district, for the next 3 years from November 15th to Christmas, located SE/c 41st Street and Harvard Avenue, located SE/c 41st Street and Harvard Avenue.

Presentation:

The applicant, **J. O. Spitzer**, 5401 West Skelly Drive, Tulsa, Oklahoma, requested permission to conduct Christmas tree sales at the above stated location from November 15, 1989 to December 24, 1989. He pointed out that he has been appearing before the Board for approximately 39 years, and asked approval of the sales operation for a three year period.

Protestants: None.

Case No. 15263 (continued)

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1202) to allow for an outdoor Christmas tree sales lot in a CS zoned district, for 3 years, November 15th to December 24th; finding that the temporary Christmas tree sales operation at this location will not be detrimental to the area; on the following described property:

Lot 1, Block 1, Village Grove Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15265

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206 - Request a variance of the front, side and rear yards to permit an addition to an existing dwelling, located 3131 South Victor.

Presentation:

The applicant, **Stephen Olsen**, 324 East 3rd Street, Tulsa, Oklahoma, submitted a site plan (Exhibit H-1), and explained that the existing garage, which was built over the setback lines, will be removed and replaced by a new structure. He pointed out that the new garage will be moved back to the side of the house, with access directly to the street.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements in the Residential Districts - Use Unit 1206) of the front, side and rear yards to permit an addition to an existing dwelling; per site plan submitted; finding a hardship imposed on the applicant by the corner lot location, the irregular shape of the lot and the curvature of the street; on the following described property:

Lot 17, Block 1, Bren-Rose Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15266

Action Requested:

Variance - Section 430.1 - Bulk and Area Requirements In the Residential Districts - Use Unit 1206 - Request a variance of the required 10' rear yard to 0' and a variance of the required 10' side yard to 0' to permit an addition to a single-family dwelling, located 1423 South St. Louis.

Comments and Questions:

Mr. Bolzle stated that he will abstain from hearing this case.

Presentation:

The applicant, **Linda Costa**, was represented by **Ron Watkins**, 1312 South Troost, Tulsa, Oklahoma. He submitted a plot plan (Exhibit J-2), and stated that the existing building was constructed within 2' of the existing property line to the north, and the front yard has a 4' cemented embankment on St. Louis. He asked permission to construct a garage and additional improvements on the back portion of the house, and pointed out that other nearby structures have been built over the setback. Photographs (Exhibit J-3) were submitted by the applicant.

Additional Comments:

Mr. Jackere asked if the addition will align with the existing house, and Mr. Watkins answered in the affirmative. He informed that the construction will align with the existing house and extend toward the alley in the rear. Mr. Jackere asked Mr. Watkins if he would agree to the addition extending to within 1' of the property lines, instead of the requested 0', and he replied that it was not his intent to build to the property line.

Protestants:

Eileen Wisher, 11608 South 87th East Avenue, Tulsa, Oklahoma, submitted a letter (Exhibit J-1) signed by area residents, which stated that they have no objection to the variance of the rear setback request, but do object to 0' setback on the sides of the property. Ms. Wisher stated that she also is a property owner in the immediate vicinity.

Ms. White pointed out that it has been stated by the applicant that the addition will align with the existing house, which is 2' from the property line, but could extend to within 1', if the brick and overhang are considered.

Ms. Wisher stated that she does not object to the application if the new addition will not be closer to the side lot lines than the existing dwelling.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-1 (Chappelle, Fuller, White, "aye"; no "nays"; Bolzle, "abstaining"; Bradley, "absent") to **APPROVE** a **Variance** (Section 430.1 - Bulk and Area Requirements In the Residential Districts - Use Unit 1206) of the required 10' rear yard to 1' and a variance of the required 10' side yard to 1'

Case No. 15266 (continued)

to permit an addition to a single-family dwelling; per plan submitted; finding that the new addition will align with the existing structure and will not move closer to the side lot lines than the existing dwelling; and finding that there are numerous structures along the alley that have been constructed over the lot line; on the following described property:

Lots 41 and 42, Block 12, Reamended Forest Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15267

Action Requested:

Variance - Section 1221.5 6 - CG, CH, CBD, IL, IM, IH - Use Conditions for Business Signs - Use Unit 1212 - Request a variance of the required 50' setback from the center line of South Peoria Avenue to 36' to permit two pole signs and a variance to exceed the square footage for three signs, located 4235 South Peoria.

Presentation:

The applicant, **Terry Howard**, was represented by **Charles Hare**, 2530 South 112 East Avenue, Tulsa, Oklahoma, who submitted a sign plan (Exhibit K-2) for a Kentucky Fried Chicken restaurant at the above stated location. He informed that the signs in question will set inside the property line, but closer than the required 50' required setback. Mr. Hare stated that the other sign in question is a 1' by 3' exit sign. Photographs (Exhibit K-1) were submitted.

Comments and Questions:

Mr. Jackere stated that the exit sign is not included in the square footage calculation of the display surface area.

Mr. Hare pointed out that it is his opinion, after speaking with the sign inspection department, that the exit sign is included in the square footage because it is lighted.

Mr. Hare informed that the lighted awnings on the building result in the signage exceeding the required amount.

Terry Howard, 1423 South 128th East Avenue, Tulsa, Oklahoma, stated that the Sign Inspector informed him that the awnings would be allowed by right, without the lighting. He pointed out that the display area for the pole signs is within the Code requirements, but they are closer to the street than the Code allows.

There was discussion concerning the exit sign, and it was determined that the lighted sign exceeds 3 sq ft, which is more than the Code allows for exit signs.

Case No. 15267 (continued)

There was Board discussion regarding the fact that the Sign Inspector considers lighted awnings to be signs. Mr. Jackere advised that, if inclined to do so, the Board can make the determination that lighted awnings are not signs, and advise the Sign Inspector of this determination. He added that the Code will soon be amended to deal with these types of signs.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, Fuller, White, "aye"; no "nays"; Chappelle, "abstaining"; Bradley, "absent") to **APPROVE** a **Variance** (Section 1221.5 6 - CG, CH, CBD, IL, IM, IH Use Conditions for Business Signs - Use Unit 1212) of the required 50' setback from the center line of South Peoria Avenue to 36' to permit two pole signs, and a **Variance** to exceed the square footage for three signs; per plan submitted; finding that numerous signs along Peoria are as close to the street as the sign in question; and finding that the two pole signs meet the Code requirement regarding square footage, and only the exit sign (1' by 3') exceeds the size requirement; on the following described property:

Beginning 111.5' north and 35' east of the SW/c, NW/4, NW/4, thence north 175', east 175', south 175', west 175', less the north 20' to the Point of Beginning, Section 30, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15268

Action Requested:

Special Exception - Section 910 - Permitted Uses In the Industrial Districts - Use Unit 1202 - Request a special exception to permit a sewage disposal facility in an IM zoned district, East side of South Elwood Avenue, North of East 51st Street South.

Presentation:

The applicant, **City of Tulsa**, was represented by **Charles Kimberling**, Manager of Engineering for the City of Tulsa Water and Wastewater. He requested permission to allow a wastewater facility to be installed at the above stated location, as the City is under an administrative order from the US Environmental Protection Agency to eliminate bypass and overflows at 54th and Riverside Drive. It was noted that public hearings have been held in regards to this matter, and bond issue money will be used to build the facility. He informed that a flow equalization basin, a large pump station, a covered basin, a force main and a gravity system on the west side of the Arkansas River, will be constructed. He stated that the construction is needed in order that the 21st Street lift station can be diverted from the east side of the river to the west side and go into the flow equalization basin when necessary, or directly to the sewage treatment plant. Mr. Kimberling stated that, for the most part, sewage will go directly to the sewage plant, with the

Case No. 15268 (continued)

basin being used only during heavy rainfalls when the pump station or the sewage plant does not have adequate capacity. He noted that the sewage will be diverted temporarily to the holding basin (approximately eight to ten times per year), to avoid a washout of the treatment process, and eventually will be pulled back into the sewage treatment plant. Mr. Kimberling pointed out that the large basin consists of four cells and, if the lift station does not take the sewage to the treatment plant, it will first go into a covered basin and continue to fill the cells, one at a time. He noted that the inside of the basin will not be visible from the shopping center across the street, and the City is attempting to make the facility compatible with the area by installing the parking area and river trail at this time. A location map (L-3) and landscape plan (Exhibit L-2) were submitted.

Comments and Questions:

Mr. Fuller asked if there is presently a treatment plant on the west side of the river, and Mr. Kimberling answered in the affirmative. In response to Mr. Fuller, the applicant stated that there is not sufficient space for the basin beside the treatment plant on the west side of the river. He informed that the entire project encompasses approximately 30 acres.

Protestants:

Bill Steele, 2170 Lombardy Road, San Marino, California, stated that he is one of the three owners of the Cherry Hill Mobile Home Park across the street from the project in question. He pointed out that the 200 homeowners that live there are concerned about the location of the basin so close to their residences. Mr. Steel pointed out that numerous residents of the mobile home park are present, and some of them will voice their concerns to the Board. He stated that he was not contacted concerning public hearings, nor were the residents of the park. He requested that the Board take into consideration the 200 families that live across from the proposed facility, and impose some conditions on the project. Mr. Steel asked that the Board condition the application to require that the holding facility be used only during heavy rains (approximately eight to ten times per year), that aerators be installed to prevent odors, and that landscaping be a part of the plan.

Jim White, Floyd Colman, Paul O'Neal and Mary Rogers, long-time residents of Cherry Hill Mobile Home Park, stated that they are concerned with the odor that might be created by the holding basin, and requested that the landscaping and jogging trail be installed at the same time.

John Moody, counsel for the owners of the Cherry Hill Mobile Home Park, submitted a plot plan (Exhibit L-1) for the project, and stated that this is a very nice and well established mobile home park. He informed that the residents of the park would like to continue to live at this location and would like the assurance that the facility will be compatible with the residential community. Mr.

Case No. 15268 (continued)

Moody stated that the residents are aware of the Industrial zoning on the property, and the fact that noisy and objectionable type uses could locate there by right. He requested that the Board, if inclined to approve the application, place specific conditions on the approval. Mr. Moody requested that the jogging trail be installed prior to the beginning operation of the facility, and be located between Elwood and the proposed facility to provide a buffer for the neighborhood. He asked that the landscaping (per plan) be installed within one complete growing season after completion of the facility, with landscaping being well maintained after planting. Mr. Moody asked that six aerators be installed, or as needed for odor control, and that the facility be used only for a overflow holding basin, with no treatment facility being installed in the future.

Additional Comments:

Mr. Kimberling asked if the items mentioned could be contained in the original construction contract, as weather could be a factor in the installation of the jogging trail and landscaping.

Mr. Moody stated that he is not trying to dictate the construction schedule, but requested that the jogging trail, fencing and landscaping be installed before the facility is put in operation.

Mr. Kimberling informed that he did not mention two other processes which will be installed for odor control. The pump station and the cover station will have carbon towers to treat the air coming from the systems, and chemicals for odor control are also added in the pump station. Mr. Kimberling stated that aerators are a last resort if odor problems still exist. He asked that the installation of aerators not be made a condition of approval, as a new more efficient process for odor control could be introduced at any time. He informed that River Parks Authority will assume the maintenance of the park area outside the fencing.

Mr. Fuller asked Mr. Jackere if the maintenance of landscaping can be made a condition of approval, and he answered in the affirmative.

Mr. Kimberling pointed out that the City has acquired a permit from the Oklahoma State Department and the Environmental Protection Agency and, if the facility does not function properly, it is the responsibility of the City to do whatever is necessary to bring the facility into compliance with their standards. He pointed out that the City is attempting to eliminate the overflow of raw sewage into the Arkansas River.

Mr. Moody stated that his concern is the maximum amount of time raw untreated sewage will be stored in the open-air basins, and that he is opposed to this facility being used for a long term storage basin.

Case No. 15268 (continued)

Mr. Kimberling pointed out that the anticipated time for sewage to be in the basins is approximately three days; however, the rainfall cannot be controlled, and the sewage will not remain in the basins any longer than is necessary.

Interested Parties:

Shelby Oakley, 3501 East 107th Place South, Tulsa, Oklahoma, stated that he is concerned with the fact that a lot of people visiting Tulsa will pass by this site and get a bad first impression of Tulsa. He stated that he owns a 21,000 sq ft strip center across the street from the project in question, and is concerned that he will have a leasing problem when it is installed.

Morris Dundee, 5946 South Columbia, Tulsa, Oklahoma, stated that he owns 10 acres of land adjacent to the property in question. He pointed out that the project is actually a sewage lagoon, and the location of such a facility will deteriorate his property value, as well as others in the area. Mr. Dundee stated that he is aware the City is in need of the holding basin, but feels the project could be located in an area to the south of the sewage plant. He stated that when he gave right-of-way for a big sewer line across the corner of his property, he was told that it was going to the sewer plant. He pointed out that he would not have given approval if he had known the line was going to the holding basin.

Terry Wilson, 7728 East 30th Street, Tulsa, Oklahoma, apologized to Chairman White for speaking from the audience during the earlier portion of the hearing. He stated that the previous speaker called the project a sewage lagoon; however, it appears to him to be multi-acre toilet. He pointed out that the facility is not appropriate for any neighborhood. Mr. Wilson stated that the sanitary sewer lines in that part of the City are totally inadequate. He requested that Mr. Kimberling withdraw the application, as there are other options available, such as repairing of the lines and reducing the infiltration of stormwater.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Boizle, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** (Section 910 - Permitted Uses in the Industrial Districts - Use Unit 1202) to permit a sewage disposal facility in an IM zoned district; per plot plan submitted; subject to jogging trail being installed upon completion of the holding facility; subject to landscaping being installed within one year; subject to the basin being used for flow equalization only, with no long-term storage or treatment; subject to the facility being drained as soon as possible after excess rainfall dissipates; and subject to best available methods being implemented to minimize odor; on the following described property:

Case No. 15268 (continued)

Lot 6, Section 25, T-19-N, R-12-E of the Indian Base and Meridian, Tulsa County, Oklahoma, according to the United States Government survey thereof.

The south 659.66' of Lot 3, together with all accretion and riparian rights thereto, in Section 25, T-19-N, R-12-E of the Indian Base and Meridian, in the County of Tulsa, State of Oklahoma, according to the United States Government Survey thereof, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15269

Action Requested:

Variance - Section 1221.3 - General Use Conditions for Business Signs - Use Unit 1213 - Request a variance of the required 200' of spacing between an "R" zoned district and a flashing sign to 175', located 215 North Garnett road.

Presentation:

The applicant, **Joe Westervelt**, was not present.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Bolzle, Chappelle, White, "aye"; no "nays"; no "abstentions"; Bradley, Fuller, "absent") to **CONTINUE** Case No. 15269 to October 19, 1989, to allow Staff sufficient time to contact the applicant.

Case No. 15271

Action Requested:

Variance - Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206 - Request a variance to permit two single-family dwellings on one lot of record, located 5434 East 115th Street South.

Presentation:

The applicant, **James D. Kelly**, was represented by **Dave Miller**, 6130 South Maplewood, Tulsa, Oklahoma, who submitted photos (Exhibit M-2) and a plot plan (Exhibit M-2). Mr. Miller stated that he is representing the owner of the property, who is proposing to construct a three-car detached garage with living quarters. He explained that the existing dwelling is located on a 4-acre site, and the living quarters above the garage will be used as a residence for the mother of the owner, who cares for his children. It was noted that the proposed structure will be approximately 450' from the street, and that the additional space in the garage will be used for boat storage and a workshop. He stated that the property is fenced and is surrounded by trees.

Case No. 15271 (continued)

Comments and Questions:

Mr. Jones stated that the agenda does not reflect the fact that a portion of the detached garage extends into the side yard; however, the case has been properly advertised and can be heard at this time.

Mr. Jackere advised that the hearing of any portion of a request that has not been posted on the agenda would be a violation of the Open Meeting Law.

Mr. Jones informed that the case has been properly advertised and notice has been sent out to surrounding property owners, so the case can be heard at the next scheduled meeting.

It was suggested by Mr. Fuller that the portion of the application that has been posted be acted upon, and the balance be continued to the next meeting.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** (Section 208 - One Single-Family Dwelling per Lot of Record - Use Unit 1206) to permit two single-family dwellings on one lot of record; and to **CONTINUE** the remainder of the application to October 19, 1989, to allow sufficient time for posting of additional relief; per plot plan submitted; finding that the tract is large enough to accommodate a residence and a three-car garage with living quarters; and finding that the granting of the variance request will not be detrimental to the area, or violate the spirit, purposes or intent of the Code; on the following described property:

Part of the SE/4, NW/4, beginning 384.26' west of the SE/c, NW/4, thence north 476.72', southwest 154.83', northwest 49.5', northwest 155.49', southwest 50', southeast 170.24', southwest 139.25, southwest 259.92', south 140', east 472.66 to the Point of Beginning, Section 34, T-18-N, R-13-E, 4.36 acres, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:37 p.m.

Date Approved

Oct 19, 1989

Janet Bradley
vice Chairman

