

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 561
Thursday, April 19, 1990, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle Bradley Chappelle Fuller	White	Jones 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, April 17, 1990, at 9:47 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** the Minutes of April 5, 1990.

UNFINISHED BUSINESS

Case No. 15401

Action Requested:

Variance to permit a detached accessory building in the side yard -
Section 420.A2 **ACCESSORY USE CONDITIONS** - Use Unit 6.

Variance of the required 20' setback from the west property line to
0' to permit the construction of a detached accessory building -
Section 430.1 **BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** -
Use Unit 6, located NE/c of West 38th Street South and South 31st
West Avenue.

Comments and Questions:

Mr. Jones informed that the applicant, **Delphine Harris**, has requested that Case No. 15401 be continued to May 3, 1990. He stated that the applicant has conferred with the Building Inspector and it has been determined that additional relief is needed.

Case No. 15401 (continued)

Board Action:

On **MOTION** of **BOLZIE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **CONTINUE** Case No. 15401 to May 3, 1990, to allow sufficient time to advertise for additional relief.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15426

Action Requested:

Minor variance of the required minimum setback from a major street plan area from 40' to 25' to allow a projecting sign - **Section 280. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 21, located 1202 South Boulder.

Presentation:

The applicant, **Anax Sign Company**, was represented by **Don Beatt**, 6437 South 87th East Avenue, Tulsa, Oklahoma, who submitted a sign plan (Exhibit A-1) and photographs (Exhibit A-2) for Board review.

Comments and Questions:

Mr. Bolzie asked Mr. Beatt if the proposed sign will project as far toward the street as the existing sign, and he replied that the existing Hopkins sign is approximately 11' long and extends to the curb, while the proposed sign is 8' long and will be 3' inside the curb line.

In response to Ms. Bradley, Mr. Beatt stated that the sign is 4'6" tall and 8' long.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Minor Variance** of the required minimum setback from a major street plan area from 40' to 25' to allow a projecting sign - **Section 280. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 21; per sign plan submitted; finding that the proposed replacement sign will be 3' further from the curb than the existing sign, and the granting of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lot 1, Block 5, Friend and Gillette Addition and East 47.59' of Lot 1, Block 6, Kirkwood Place Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 15410

Action Requested:

Special Exception to allow a business sign for an existing office -
Section 420. ACCESSORY USES IN RESIDENTIAL DISTRICTS - Use Unit 21.

Special Exception to allow a business sign in an R District -
Section 1221.3 General Use Conditions for Business Signs - Use Unit 21.

Variance of the front yard setback requirement measured from the centerline of Denver Street from 40' to 31' to allow a new sign -
Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 21, located 1638 South Denver.

Presentation:

The applicant, **Philip K. Blough II**, 1638 South Denver, Tulsa, Oklahoma, submitted a plat of survey (Exhibit B-1) and a sign plan (Exhibit B-2) for a proposed sign on his property at the above stated location. The applicant explained that he purchased the property in question last year and received permission from the Board to office and live in the existing residence. Mr. Blough stated that he failed to request a business sign at the previous hearing and asked the Board to allow the installation of a sign which is 70" tall and 55" wide. He pointed out that, although the property along Denver is zoned residential, the area is in transition to office and other types of uses. The applicant stated that his sign will align with existing signs along Denver.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a Special Exception to allow a business sign for an existing office - **Section 420. ACCESSORY USES IN RESIDENTIAL DISTRICTS - Use Unit 21**; to **APPROVE** a Special Exception to allow a business sign in an R District - **Section 1221.3 General Use Conditions for Business Signs - Use Unit 21**; and to **APPROVE** a **Variance** of the front yard setback requirement measured from the centerline of Denver Avenue from 40' to 31' to allow a new sign - **Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 21**; per sign plan submitted: finding that there are many businesses in the area, and numerous offices with signs; and finding that the houses and the existing signs in the older neighborhood have been constructed closer to the street than the current Code allows, and the proposed sign will align with those already in place along Denver; on the following described property:

Lot 10, Block 5, Stonebreaker Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15416

Action Requested:

Variance of the required setback measured from the centerline of 93rd East Avenue from 65' to 45', and a variance of the required setback measured from the south property line abutting an R District from 75' to 37' - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 2, located 5235 North 93rd East Avenue.

Presentation:

The applicant, **City of Tulsa**, was represented by **J.D. Turner**, 2317 South Jackson, Tulsa, Oklahoma, who submitted a plot plan (Exhibit C-1) and a brochure (Exhibit C-2) describing a proposed security building. He informed that the land to the south is vacant, with some empty houses located adjacent to the vacant lot.

Interested Parties:

Helen Ferguson, 6348 South 103rd East Avenue, Tulsa, Oklahoma, stated that she owns property at 4320 North Mingo, which is near the proposed building. Ms. Ferguson explained that she received notice of the variance request and is interested in what is taking place in the neighborhood. After reviewing the plan for the proposed building, Ms. Ferguson stated that she is not opposed to the application.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** of the required setback measured from the centerline of 93rd East Avenue from 65' to 45', and a variance of the required setback measured from the south property line abutting an R District from 75' to 37' - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 2; per plot plan submitted; finding that the area is in transition from residential to industrial, with multiple zoning classifications; and finding that the small security building located near the entry will not be detrimental to the surrounding properties; on the following described property:

Lot 3, Block 1, Preston-Easton First Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15418

Action Requested:

Variance of the minimum side yard setback requirement measured from the centerline of Harvard Avenue from 85' to 75.6' to permit an existing dwelling - **Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 3308 East 67th Place South.

Presentation:

The applicant, **Thomas M. Bingham**, 2431 East 61st Street, Tulsa, Oklahoma, submitted a plat of survey (Exhibit D-1) and stated that the variance request is in regard to an existing dwelling that is encroaching into the required setback. It was noted that the house was constructed on the west portion of the property, due to the extreme slope of the lot.

Comments and Questions:

Mr. Chappelle asked if new construction is proposed, and the applicant replied that no construction is planned, as the relief is requested only to clear the title.

Protestants: None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** of the minimum side yard setback requirement measured from the centerline of Harvard Avenue from 85' to 75.6' to permit an existing dwelling - **Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, and to clear the title to the property; per plat of survey submitted; finding a hardship demonstrated by the corner location of the existing dwelling and the extreme slope of the lot; on the following described property:

Lot 1, Block 2, Southern Hills South Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15419

Action Requested:

Variance of the minimum side yard setback from 10' to 2' to permit construction of a dwelling - **Section 430. BULK AND ARE REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located South Pittsburg at East 64th Street South.

Presentation:

The applicant, **Samuel E. Daniel**, 4137 East 63rd Street, Tulsa, Oklahoma, stated that he is proposing to sell the lot in question, and the house plan selected by the buyer requires two feet of additional building space on the south. He pointed out that the south boundary abuts an 80' water reserve area and requested permission to construct the new dwelling within 2' of the reserve. A plot plan (Exhibit E-1) was submitted.

Comments and Questions:

Mr. Jones stated that Staff recommends that some type of screening be installed along the south boundary line.

The applicant suggested that tie walls be installed in lieu of a wood screening fence, and Mr. Jones stated that he is in agreement with that alternative.

Ms. Bradley asked the distance from the property line to the drainage ditch, and the applicant stated that distance to be approximately 40'.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** of the minimum side yard setback from 10' to 2' to permit construction of a dwelling - **Section 430. BULK AND ARE REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to screening being installed in the back yard on the south property line; finding that the subject property abuts a water reserve area, with no development permitted, and the granting of the variance request will not be detrimental to the neighborhood or violate the spirit, purposes and intent of the Code; on the following described property:

Lot 24, Block 2, Livingston Park South Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15420

Action Requested:

Special Exception to allow a beauty shop as a home occupation in a Residential District - **Section 440.2 SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 13, located at 1607 North Xanthus.

Presentation:

The applicant, **Joyce Casey**, 1607 North Xanthus, Tulsa, Oklahoma, requested permission to operate a beauty shop at the above stated location. A plat of survey (Exhibit F-1) was submitted.

Comments and Questions:

In response to Ms. Bradley, the applicant stated that she plans to have only one chair in the salon and will operate the business alone. Ms. Casey stated that she has read the Home Occupation Guidelines and will operate the business according to the requirements. In reference to parking, the applicant stated that adequate parking can be supplied on a vacant lot next door.

In reference to signage, Ms. Bradley pointed out that a sign will not be allowed, and Mr. Jackere advised that the posting of the State certificate in the window will be sufficient to satisfy the State requirements.

Ms. Casey stated that she has observed numerous signs in front of neighborhood beauty shops around the City, and Mr. Jackere informed that they are illegal, as signs are not allowed for home occupations.

Mr. Bolzle inquired as to the hours of operation for the business, and the applicant replied that she plans to be open Tuesday through Saturday, 8:00 a.m. to 7:00 p.m.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** to allow a beauty shop as a home occupation in a Residential District - **Section 440.2 SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 13; subject to Home Occupation Guidelines; and subject to days and hours of operation being Tuesday through Saturday, 8:00 a.m. to 7:00 p.m.; finding that the home occupation, as presented, will not be injurious to the residential neighborhood; on the following described property:

Lot 20 and the S/2 of Lot 21, Block 2, Kinloch Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15421

Action Requested:

Special Exception to allow a beauty shop in an OL zoned district - **Section 610 PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 13, located 1617 1/2 East 15th Street.

Presentation:

The applicant, **Harry Cramton**, 1440 South Troost, Tulsa, Oklahoma, submitted a plot plan (Exhibit G-1) and stated that he lives on property abutting the subject tract, which creates a type of courtyard effect. He submitted photographs (Exhibit G-2) and informed that the two-story garage and apartment have been renovated and will be used as a beauty salon. Mr. Cramton stated that there are numerous office and commercial uses in the area, and that he has spoken with representatives from the Cherry Street Association and the Swan Lake Homeowners Association, both of which are supportive of the application.

Comments and Questions:

Ms. Bradley asked the applicant if he has been informed that the parking lot will require a hard surface, and Mr. Cramton stated that he was not aware of the requirement, but informed the Board that the parking area is covered with a small gravel material that becomes hard when wet.

In response to the applicant, Mr. Jones advised that the hard surface covering must be in place before the area is utilized for parking.

Ms. Hubbard advised that the Building Inspector's office will determine if the material used to cover the parking lot is in compliance with Code requirements. The applicant stated that a brick covering is in the long-range plan for the courtyard.

Protestants: None.

Board Action:

On **MOTION** of **BOLZIE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Special Exception** to allow a beauty shop in an OL zoned district - **Section 610 PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 13; per plot plan submitted; finding that there are multiple zoning classifications in the area and numerous commercial uses along 15th Street; and finding that the granting of the request will not be injurious to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

Lot 10, Block 1, Clark's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15422

Action Requested:

Variance to allow required parking spaces to be located on a lot other than the lot containing the principal use - **Section 1320. OFF-STREET PARKING AND OFF-STREET LOADING ~ GENERAL REQUIREMENTS** - Use Unit 12, located 112 East 18th Street.

Presentation:

The applicant, **Jay Orendorff**, was represented by **Charles Voseles**, 3336 East 32nd Street, Tulsa, Oklahoma, who submitted a parking plan (Exhibit H-1) and explained that the building in question was recently leased to a health club for a few months, but prior to that time was a part of the Louisiana Restaurant for approximately 40 years. Mr. Voseles stated that his client is proposing to lease the restaurant and a nearby parking lot, which are under the same ownership. Photographs (Exhibit H-2) were submitted.

Jay Orendorff, 3903 South Riverside, Tulsa, Oklahoma, stated that 26 parking spaces are located beside the restaurant, with enough space behind the building to accommodate eight vehicles. He informed that the owner of the property has agreed to lease additional space for parking on the lot to the south of the restaurant.

Comments and Questions:

Mr. Jackere pointed out that there were no parking requirements when the Louisiana was located in the building and continued restaurant use would not be required to conform to current parking requirements; however, the use changed to that of a gymnasium for a short period of time, which caused the new restaurant to be subject to the existing Code requirements. He further noted that the parking lease agreement could be terminated at the will of the lessor and the restaurant would be left without sufficient parking.

Mr. Orendorff informed that the owner of the lot is reluctant to sign a tie contract, as she is concerned with motorists using her lot as a drive-through.

Mr. Fuller suggested that the variance be approved for a 30-day period to allow the applicant to return to the Board for a parking variance or provide a tie contract between the lot of the principal use and the parking lot to the south.

After conferring with legal counsel, it was the consensus of the Board that the applicant should advertise for a variance of the required number of parking spaces or supply the Building Inspector with a tie contract between the lot of the principal use and the parking lot to the rear.

Protestants: None.

Case No. 15422 (continued)

Board Action:

Mr. Chappelle's motion for approval, subject to the applicant returning to the Board for a variance of the required number of parking spaces, or the execution of a tie contract between the lot containing the principal use and the parking lot to the south, died for lack of a second.

Mr. Jackere and the applicant left the meeting room temporarily to discuss the parking issue. Upon their return, Mr. Jackere suggested to the Board that, if inclined to approve the application, the approval should be for 30 days only, subject to the execution of a tie contract for a period coextensive with the restaurant lease, or the obtaining of a variance of the required number of parking spaces; however, if either the tie contract or the variance is obtained, the approval will be subject to the length of time stipulated in the tie contract, or the length of time granted for the variance of required parking. Mr. Jackere advised the applicant that if these conditions are not met during the 30-day approval period the application will be denied, and any investments in the restaurant are at risk.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** to allow required parking spaces to be located on a lot other than the lot containing the principal use for 30 days only - **Section 1320. OFF-STREET PARKING AND OFF-STREET LOADING - GENERAL REQUIREMENTS** - Use Unit 12; per parking plan submitted; subject to the execution of a tie contract[¶] between the lot of principal use and the parking lot to the south for a period coextensive with the restaurant lease, or the obtaining of a variance of the required number of parking spaces on the lot containing the restaurant; finding that a restaurant has been in operation at this location for approximately forty years, except for a three-month period, and the use is compatible with the surrounding area; on the following described property:

¶A tie contract (Staff Exhibit H-3) was submitted by the applicant subsequent to the April 19, 1990 meeting, which states that the parking lot lease runs coextensively with the restaurant lease.

The west 41' of Lot 1, and the east 4' of Lot 2, Block 3, Selg Addition,

AND

A part of Lot 5, Block 3, Sleg Addition to the City of Tulsa, more particularly described as follows: Beginning on a point on the north line of said lot 87.7' east of the NW/c thereof, thence east along the north line of said lot 105.1' to the NE/c of said lot, thence southwesterly along the easterly line of said lot 53.85' to the SE/c of said lot, thence westerly along the south line of said lot 85.1', thence north 50' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15423

Action Requested:

Variance to waive the screening fence requirement along the property lines abutting R zoned districts - **Section 1213.3 CONVENIENCE GOODS AND SERVICES** - Use Conditions - Use Unit 13, located 215 North Garnett Road.

Presentation:

The applicant, **QuikTrip Corporation**, was represented by **Joe Westervelt**, 901 North Mingo, Tulsa, Oklahoma, who submitted a plot plan (Exhibit J-1) for a new convenience store. He explained that a 6' screening fence is required between the store and the Stone Creek Apartments; however, the owner of the apartments has requested (Exhibit J-2) that the space be left open to accommodate the residents of the complex. Mr. Westervelt stated that a stairway has been constructed to the east and south.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** to waive the screening fence requirement along the property lines abutting R zoned districts - **Section 1213.3 CONVENIENCE GOODS AND SERVICES** - Use Conditions - Use Unit 13; per plan submitted; finding that the property in question is approximately 10' higher in elevation than the apartment parking lot, and the owner of Stone Creek Apartments has requested that screening be waived between the two properties for security purposes; on the following described property:

Lot 1, Block 1, Skelly-Crosstown-Garnett Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15424

Action Requested:

Variance of the required building setback from abutting R zoned districts from 75' to 10' on the east boundary and from 75' to 25' on the south boundary - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25, located 1504 West 37th Place.

Presentation:

The applicant, **Roy Johnsen**, 324 Main Mall, Tulsa, Oklahoma, stated that he is representing the owner of the property in question, and informed that, upon review of the application, he has determined that a modification of the screening requirement should have been a part of this application. He pointed out that properties to the east and west of the tract are used for industrial purposes, and the area to the north has an industrial zoning classification. It was noted by the applicant that the abutting RS zoned property to the

Case No. 15424 (continued)

east is a part of a drainage improvement project, which is owned by the City. Mr. Johnsen stated that the residential lots to the south are approximately 300' in depth, with the homes on these lots fronting on 39th Street. Mr. Johnsen requested that the screening issue be continued to allow sufficient time for advertising.

Comments and Questions:

Mr. Jones advised that Staff has been notified by Stormwater Management (Exhibit K-1) that the property is located in the Cherry Creek floodplain and could have some development constraints if a new building is constructed.

Mr. Johnsen stated that a certain building elevation must be maintained in the floodplain.

Ms. Bradley asked if a new building will be constructed, and Mr. Johnsen answered in the affirmative.

Protestants:

Gloria Kuhlenschmidt, 1339 West 39th Street, Tulsa, Oklahoma, stated that her home is located to the south of the subject tract, and is concerned that additional construction would further aggravate the drainage problem in the area. She further informed that welding occurs on the property and is concerned about her children playing near the welding operation.

Mr. Johnsen reiterated that his client's property is vacant, and suggested that the welding operation may be located on the property to the west of the subject tract.

After conferring with the Board, Ms. Kuhlenschmidt agreed that the welding is taking place on the lot abutting the subject tract.

Terry Reynolds, 1351 West 39th Street, Tulsa, Oklahoma, stated that his residence is located to the south of the property in question. He pointed out that the building site was filled, which directed the water flow toward the residential area to the south, and any further construction would only add to the problem.

Mr. Bozile advised the protestants to contact Stormwater Management and request a review of the problems caused by additional construction in the area.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bozile, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to APPROVE a **Variance** of the required building setback from abutting R zoned districts from 75' to 10' on the east boundary and from 75' to 25' on the south boundary - **Section 930. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25; and CONTINUE the balance of the application concerning screening to

Case No. 15424 (continued)

May 5, 1990; finding a hardship demonstrated by the irregular shape of the lot and the fact that the property abuts a drainage channel to the east; and finding that the homes in the abutting residential area to the south have been constructed on the extreme southern portion of long, narrow lots, providing a wide separation between the proposed building and the existing houses; on the following described property:

Lots 1 through 4 inclusive, Block 4, Interurban Addition, Tulsa County, Oklahoma according to the recorded plat thereof; less and except a portion of Lots 1, 2 and 3 described as follows: Beginning at the SE/c of said Lot 1, thence west along the south line of said Lot 1, a distance of 95' to a point; thence in a northwesterly direction to a point 25' south and 30' west of the NE/c of said Lot 3, thence north a distance of 10' to a point; thence on a northwesterly direction to a point, said point being on the north line of said Lot 3, and 46.0' east of the NW/c of said Lot 3, thence east along the north line of said Lots 3, 2 and 1, to the NE/c of said Lot 1, thence south along the east line of Lot 1, and a distance of 330' to the SE/c thereof and place of beginning, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15425

Action Requested:

Variance of the requirement that off-street parking spaces shall be located on the lot containing the use for which the required spaces are to be provided - **Section 1320.D GENERAL REQUIREMENTS** - Use Unit 12, located NE/c 1-244 and Lewis Avenue.

Presentation:

The applicant, **Roy Johnsen**, 324 Main Mall, Tulsa, Oklahoma, stated that he represents the owner of the BI-Lo Food Warehouse, which is located on a City block (22 lots). He informed that the Code requires that parking be located on the lot of principal use. Mr. Johnsen explained that the property has changed ownerships several times, and the BI-Lo store has leased from the various owners. He informed that the store has recently been sold to an investment company in New York City, and during the title search it was discovered that the provided parking area is not located on the lot of use. Mr. Johnsen stated that no new construction is proposed.

Protestants:

Fran Pace, 1326 South Florence Avenue, Tulsa, Oklahoma, stated that she owns a house to the north of the grocery store, and asked that the case be continued until the owner of the subject property complies with the conditions previously imposed by the Board. She pointed out that District Court action required that a screening

Case No. 15425 (continued)

fence protecting the residential neighborhood to be constructed and maintained. Ms. Pace submitted photographs (Exhibit L-2) substantiating the fact that the fence has not been properly maintained. She further noted that the current owner (Exhibit L-3) of the property is the third largest food wholesaler in the United States and has sufficient funds for maintenance. A petition of opposition (Exhibit L-1) was submitted.

Comments and Questions:

Mr. Jackere asked Ms. Pace if she objects to the store having parking on a lot other than the lot containing the building, and she replied that she has no objection to the parking, however, feels that this Board has the power to continue the current case until the store has complied with previously imposed conditions.

Ms. Bradley stated that she has viewed the site and was appalled at the condition of the property.

Mr. Jackere advised that this Board does not have the power to police previous Board or District Court decisions or enforce previously imposed conditions. He pointed out that the City and the Board members could be subject to liability if such actions are attempted.

All Board members concurred that the issue of fence maintenance is not germane to the case under consideration.

In response to Ms. Bradley, Mr. Jackere stated that the Chairman of the Board of Adjustment has the authority to write a letter to Code Enforcement requesting that Ms. Pace's concerns be addressed.

Mr. Johnsen stated that he will contact the owner of the property and make known the Board's concerns.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzie, Bradley, Chappelle, Fuller, "aye"; no "nays"; no "abstentions"; White, "absent") to **APPROVE** a **Variance** of the requirement that off-street parking spaces shall be located on the lot containing the use for which the required spaces are to be provided - **Section 1320.D GENERAL REQUIREMENTS** - Use Unit 12; subject to the execution of a tie contract between all lots under application; finding that the property in question is comprised of several lots, and that the existing store and parking lot have been at this location for a long period of time; on the following described property:

Case No. 15425 (continued)

That portion of Block 1, Schlump Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, more particularly described as follows, to-wit:

Beginning at the NW/c of Lot 24, Block 1, Schlump Addition, said point being the intersection of the east right-of-way line of North Lewis Avenue and the south right-of-way line of East Archer; thence N 89°49'00" E, along the north line of Block 1, Schlump Addition and the south right-of-way line of East Archer, a distance of 279.00' to a point, said point being the NE/c of Lot 1, Block 1, Schlump Addition and the intersection of the south right-of-way line of East Archer and the west right-of-way line of North Lewis Place; thence due south along the east line of said Block 1 and the west right-of-way line of North Lewis Place, a distance of 587.50' to a point, said point being on the north right-of-way line of Interstate Highway 244, said point also being 5.00' north of the SE/c of Lot 12, Block 1, Schlump Addition; thence N 80°40'48" W along the north right-of-way line of Interstate Highway 244, a distance of 272.49' to a point; thence N 45°22' 08" W along said right-of-way, a distance of 14.20' to a point, said point being 60.00' north of the SW/c of Lot 13, Block 1, Schlump Addition and on the east right-of-way line of North Lewis Avenue; thence due north, along said right-of-way and west line of Block 1, Schlump Addition, a distance of 532.50' to the Point of Beginning, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 2:52 p.m.

Date Approved S-19-1990

Janet Bradley
Vice Chairman