

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 576
Thursday, December 6, 1990, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle Chappelle Fuller White, Chairman	Bradley	Gardner Jones Moore	Jackere, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Auditor on Wednesday, December 5, 1990, at 10:58 a.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.

Clarification - Case No. 15587

Mr. Jones stated that Gary Spriggs, applicant in Case No. 15587, has requested a clarification of the approval for construction of a break room on the interior of an existing building. He explained that Mr. Spriggs received approval of the application at the November 15, 1990 Board of Adjustment meeting.

Mr. Spriggs submitted a plot plan (Exhibit A-1) and stated that he understood that the previous approval would allow him to convert an existing foyer to offices on the ground floor and a break room in the loft area. He stated that a landowner in the area voiced a complaint when other outside construction began, and the Building Inspector requested a clarification of the previous approval. Mr. Spriggs pointed out that exterior construction is to change the roofline and alleviate a problem with recurring leaks.

Ms. White informed that it was her understanding from the applicant's previous presentation that the proposed exterior construction did not require Board approval.

Mr. Spriggs stated that the existing ceiling and lights will remain in the new room, and that the 6' extension of the roofline is allowed by right and will in no way alter or add to the loft space.

Protestants:

Bob and Wanda Crow stated that they have lived in the area for approximately 22 years and are opposed to any exterior alterations which will add to the height of the building. They voiced a concern that other office buildings in the area could request similar changes.

Clarification - Case No. 15587 (continued)

Mr. Jackere pointed out that the Board approved the interior construction of the break room in the loft area, and since there is no height restriction for the roof, any construction to change the roofline is allowed by right in the OL District, provided a second story is not added.

Mr. Gardner informed that the applicant stated at the previous meeting that only the space in the upper portion of the existing foyer would be utilized for the break room, and the Board needs to make sure that is all that is occurring if the existing roof is to be raised.

After discussion, it was the consensus of the Board that it was their intent to approve the conversion of the existing loft area in the upper portion of the foyer to a break room, with no change in the existing ceiling or lighting, and no change in the usable area, or cubic content. They concluded that it was not their intent to attempt to prohibit any outside construction that would be allowed by right; however, it was their intent to prohibit exterior changes that would accommodate any increase in the size or height of the upper break room, and prohibit the installation of windows or other forms of light through the roof.

MINUTES:

On **MOTION** of **BOLZIE**, the Board voted 3-0-1 (Bolzie, Chappelle, White, "aye"; no "nays"; Fuller, "abstaining"; Bradley, "absent") to **APPROVE** the Minutes of November 15, 1990, as clarified this day.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15597

Action Requested:

Minor Exception to permit a detached accessory building on an abutting lot of record - **Section 1608.A.12. Special Exception - Use Unit 6**, located 422 South 25th West Avenue.

Presentation:

The applicant, **Walter Carpenter**, 4224 South 25th West Avenue, Tulsa, Oklahoma, submitted a plot plan (Exhibit R-1), and requested permission to construct an accessory building to the rear of a vacant lot which serves as a side yard for his residence.

Comments and Questions:

Ms. White asked the applicant if he proposes to use the building for a commercial use, and he replied that it will be for his private use only.

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 **Minor Exception** to permit a detached

Case No. 15597 (continued)

accessory building on an abutting lot of record - **Section 1608.A.12. Special Exception** - Use Unit 6; per plot plan submitted; subject to the execution of a tie contract, and no commercial use on the property; finding that the lot in question abuts the lot containing the principal use, and the proposed accessory building will be for personal storage only; on the following described property:

Lots 6 and 7, Block 1, Park Addition to Red Fork, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15601

Action Requested:

Minor Variance of the required front yard, measured from the property line, from 30' to 29.6' to clear title on an existing dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2235 East 25th Place.

Presentation:

The applicant, **John Cary**, 2235 East 25th Place, Tulsa, Oklahoma, was not present.

Comments and Questions:

Mr. Jones informed that the applicant has notified Staff that he is unable to attend the meeting, but requested that the Board render a decision on the case in his absence. He pointed out that the relief is less than 1' and is requested in order to clear the title.

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 **Minor Variance** of the required front yard, measured from the property line, from 30' to 29.6' to clear title on an existing dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; on the following described property:

Lots 19 and 20, except the east 30' of Lot 20 and that part of Lot 18 described as follows: Beginning at the southeast corner of Lot 18; westerly along the south line of said Lot, 6' to a point; northerly on a straight line to a point on the north line of Lot 18, 5' westerly from the northeast corner of Lot 18; easterly along the north line of said Lot, 5' to the northeast corner of said Lot; southerly along the east line of said Lot, 135.96' to the southeast corner of said Lot to POB all in Block 5, Wildwood Addition to the City and County of Tulsa, Oklahoma.

NEW APPLICATIONS

Case No. 15589

Action Requested:

Special Exception to permit Christmas tree sales on a permanent, but seasonal basis - Section 701. **PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, located SW/c 41st Street South and Darlington Avenue.

Presentation:

The applicant, **Chuck Kays**, Route 3, Box 129, Cleveland, Oklahoma, stated that he operates Christmas tree sales lots as a benefit for Children's Medical Center. He explained that he has received numerous complaints concerning a lot at this location, and requested that the application be withdrawn.

Protestants:

Mr. Jones informed that Staff has received a letter (Exhibit B-1) from **Richard Eagleton**, counsel for a protestant in the area, who requested that the case be continued if Mr. Kays does not choose to withdraw the application.

There were numerous protestants (Exhibit B-2) in the hearing room who did not choose to speak, as the application was withdrawn by Mr. Kays.

Comments and Questions:

Mr. Jackere advised that the Board has the jurisdiction to grant this type of request, by separate application under Use Unit 2, for a 30-day period. He suggested that, if a Christmas tree sales lot is proposed for 1991, the applicant should make application for the lot well in advance of the holiday season.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **WITHDRAW** Case No. 15589, as requested by the applicant.

Case No. 15590

Action Requested:

Special Exception to permit Christmas tree sales on a permanent, but seasonal, basis - Section 701. **PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, located NE/c Skelly Drive and Peoria Avenue.

Presentation:

The applicant, **Chuck Kays**, Route 3, Box 129, Cleveland, Oklahoma, requested permission to operate a Christmas tree sales lot at the above stated location. He informed that the lot will be operated from 10:00 a.m to 10:00 p.m., November 25, 1990 to December 25, 1990 as a benefit for Children's Medical Center.

Case No. 15590 (continued)

Comments and Questions:

Mr. Chappelle asked the applicant if a Christmas tree sales lot has previously been in operation at this location, and he stated that he has not operated a tree sales lot on the property.

Mr. Jackere advised that the sales lot will occupy parking spaces on the parking lot, and asked if these are required spaces.

Mr. Bolzie informed that there are a number of vacancies in the Shopping Center at this time, but this could change during the next year.

Mr. Chappelle suggested that the lot be approved for one year only, as the area could undergo significant changes during the course of a year.

Protestants: None.

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 **Special Exception** to permit Christmas tree sales - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2; subject to days and hours of operation being from November 25, 1990 to December 25, 1990, 10:00 a.m to 10:00 p.m.; finding that the temporary sale of Christmas trees will not be detrimental to the area; on the following described property:

Lots 9 and 10, and the west 181.02' of Lot 11, and the north 50' of East 125' of Lot 11, Block 19, Bellaire Acres Second Extended Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15591

Action Requested:

Special Exception to permit Christmas tree sales on a permanent, but seasonal basis - **Section 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 2, located 5300 Skelly Drive.

Presentation:

The applicant, **Chuck Kays**, Route 3, Box 129, Cleveland, Oklahoma, requested permission to operate a Christmas tree sales lot on property owned by the Children's Medical Center. He informed that the lot will be open from 10:00 a.m to 10:00 p.m., November 25, 1990 to December 25, 1990.

Interested Parties:

Terry Wilson, planning chairman for District 5, informed the Board that there are additional sales operations, other than those approved, being conducted on a lot operated by the applicant at 4200 South Memorial. He asked that any approval be limited to prohibit subleasing or other activities being conducted on the lot.

Case No. 15591 (continued)

Mr. Jackere pointed out that the property on Memorial is zoned for commercial use; however, the property under application is zoned OM, which does not permit any type of retail sales without Board approval.

Protestants: None.

Board Action:

On **MOTION** of FULLER, the Board voted 4-0-0 (Boizie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Special Exception** to permit Christmas tree sales - **Section 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS - Use Unit 2**; subject to the operation of the sales lot being 10:00 a.m. to 10:00 p.m., November 25, 1990 to December 25, 1990; subject to sales being limited to Christmas trees only; finding that the temporary use will be compatible with the surrounding area: on the following described property:

Lot 1, Block 1, Sinclair Research Laboratory Addition Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15592

Action Requested:

Variance of the front yard requirement, as measured from the centerline of 21st Street, from 95' to 55' to permit the construction of a covered front porch and two rear porch additions - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6**, located 1212 East 21st Street.

Presentation:

The applicant, **William Huston**, 1212 East 21st Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit P-1) and explained that he is attempting to improve his property by adding porches to the front and back of the existing residence. He pointed out that all houses in this area along 21st Street encroach into the required front yard setback, as they were constructed prior to the adoption of current zoning regulations.

Comments and Questions:

Mr. Gardner noted that 21st Street in this area is being removed from the Major Street Plan as a Primary Arterial, which will reduce the required setback by 10'.

Protestants: None.

Case No. 15592 (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** of the front yard requirement, as measured from the centerline of 21st Street, from 95' to 55' to permit the construction of a covered front porch and two rear porch additions - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; finding that the home was constructed prior to the adoption of the current Zoning Code and does not extend closer to the street than other dwellings in the area; and finding that the Major Street Plan is being amended to reduce this area of 21st Street to a Secondary Arterial, thus reducing the required setback 10'; on the following described property:

Lot 2, Block 15, Sunset Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15594

Action Requested:

Special Exception to permit a day care center - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**, and **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 8119 and 8123 East 12th Street.

Presentation:

The applicant, **Brenda Hankins**, was represented by **Charles Hurst**, Hurst Construction Company, 4323 East Pine Place, Tulsa, Oklahoma. He submitted a plot plan (Exhibit E-1) and photographs (Exhibit E-2), and requested permission to renovate and convert the existing buildings to a day care center.

Comments and Questions:

Mr. Bolzle asked if the day care center will be operating in both buildings located on the property, and he answered in the affirmative.

In response to Ms. White, the applicant informed that the area between the two buildings will be fenced and converted to a play area for the center. He informed that both ingress and egress will be on 12th Street, with the driveway circling behind the facility, and that all parking will be located to the rear of the property.

Ms. White inquired as to the hours of operation, and Mr. Hurst informed that the center will be in operation from 6:00 a.m. to 12 midnight, Monday through Saturday.

Mr. Gardner stated that there is an apartment complex to the east and a strip commercial center to the west of the subject property, with no single-family residential areas abutting the proposal.

Protestants: None.

Case No. 15594 (continued)

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 **Special Exception** to permit a day care center - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, and Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; per plot plan submitted; subject to days and hours of operation being Monday through Saturday, 6:00 a.m. to 12 midnight; and subject to Building and Fire Codes, and all applicable Flood Hazard Regulations; finding that a day care center is compatible with existing uses, and the granting of the special exception request will not be detrimental to the surrounding area; on the following described property:

East 105' of Lot 10, Block 2, Forest Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15595

Action Requested:

Variance of the required 150' setback from an R District to permit a sign - **Section 1103.B.2.b (2) - General Use Conditions under Section 1103. USES PERMITTED IN PLANNED UNIT DEVELOPMENT - Use Unit 11,** located 3343 South Yale.

Presentation:

The applicant, **Bruce Anderson**, 9520 East 50th Place, Tulsa, Oklahoma, submitted a sign plan (Exhibit F-1), and explained that the sign in question is 15' closer to the east property line than permitted by the Code. He stated that the sign is not visible to the residences on the east side of the building.

Comments and Questions:

Mr. Fuller asked if the sign will be located on Yale Avenue, and the applicant replied that the 30 sq ft sign is on Yale, and meets all setback requirements.

Protestants: None.

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** of the required 150' setback from an R District to permit a sign - **Section 1103.B.2.b (2) - General Use Conditions under Section 1103. USES PERMITTED IN PLANNED UNIT DEVELOPMENT - Use Unit 11;** per sign plan submitted; finding a hardship imposed on the applicant by the fact that the property is only 150' wide and would not be allowed a ground sign by right; and finding that the sign will not be detrimental to the area, as it is not visible from the residential area to the east; on the following described property:

Lot 1, Block 1, Amended Yale Center II Addition, City of Tulsa, Tulsa County, Oklahoma.

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Case No. 15596

Action Requested:

Special Exception to permit a kennel (more than 3 dogs, not for commercial purposes) as a home occupation - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 15, located 3614 South Jamestown.

Presentation:

The applicant, **Jim Wirtz**, 3614 South Jamestown, Tulsa, Oklahoma, stated that he does not operate a kennel, but does own seven small dogs. He stated that one of the dogs had a litter of three, which increased the number to seven; however, all female dogs have now been spayed.

Comments and Questions:

Ms. White asked if the dogs stay outside, and the applicant stated that he has a "doggie door" which allows them to go in and out of the house.

Mr. Fuller inquired as to the reason for coming before the Board, and Mr. Wirtz stated that a real estate agent was showing the house next door and saw the dogs in the yard. He pointed out that his neighbors are not opposed to the number of dogs.

In response to Ms. White, the applicant stated that the dogs are kept inside the house at night.

Protestants:

Norma Richey, 2904 South 95th East Avenue, Tulsa, Oklahoma, stated that she owns a rental house across the street from the subject property, and is opposed to the application because of the noise and odor created by seven dogs confined to the small yard.

Mr. Jackere asked Ms. Richey if her renters have complained about the dogs, and she stated that she has had no complaints.

W. B. Hickerson, 1140 South Columbia, Tulsa, Oklahoma, a property owner at 3632 South Jamestown, pointed out that the request is not in harmony with the spirit and intent of the Code. He stated that, although he has not had complaints from his renters, the applicant has an excessive amount of animals on the small lot, and requested that the application be denied.

Applicant's Rebuttal:

Mr. Wirtz stated that his dogs stay inside at night and are not disruptive to the neighborhood.

Case No. 15596 (continued)

Mr. Chappelle asked how big the dogs will be when they are full grown, and the applicant stated that they are full grown and weigh approximately 15 pounds.

Ms. White inquired as to the age of the dogs, and the applicant stated that the oldest dog is three years old, and the three youngest are approximately one year old.

In response to Mr. Bolzie, the applicant stated that he has had more than three dogs on his property for approximately one and one-half years.

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 **Special Exception** to permit a kennel (more than 3 dogs, not for commercial purposes) as a home occupation - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS - Use Unit 15;** subject to a maximum of seven dogs; and subject to no replacement of dogs removed from the premises until the number is reduced to three; on the following described property:

North 30' of Lot 21 and south 30' of Lot 22, Block 3, 36th Street Suburb Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15598

Action Requested:

Special Exception to waive the screening requirement along the boundary abutting an R District - **Section 1223. Use Conditions - Use Unit 23,** located SW/c Young Street and North Sheridan Road.

Presentation:

The applicant, **Ann Pryer**, 2230 North Sheridan, Tulsa, Oklahoma, submitted a drawing (Exhibit G-1), and stated that she has owned the property in question for approximately 23 years. She explained that the Hamilton Apartments were constructed in 1967 and a 6' privacy fence was installed, which they have continued to maintain. Ms. Pryer stated that the government requires that her business have a security fence, which was installed beside the privacy fence owned by the apartments. She asked the Board to approve the application and waive the screening requirement on her property.

Comments and Questions:

In response to Mr. Bolzie, the applicant stated that a waiver of the screening requirement or the installation of a screening fence is required before a Building Permit will be issued.

Mr. Jones pointed out that it is the responsibility of the applicant to provide screening, and in the event the existing screening fence is ever removed or destroyed, the applicant would be required to erect appropriate screening.

Case No. 15598 (continued)

Interested Parties:

Wanda Gragg, Manager of the Hamilton Apartments, stated that the owner of the apartments is supportive of the application.

Protestants: None.

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 **Special Exception** to waive the screening requirement along the boundary abutting an R District **Section 1223. Use Conditions** - Use Unit 23; subject to the owner installing a 6' solid screening fence in the event the existing fence is removed or destroyed in the future; finding that the property is properly screened at this time, and a second fence would serve no purpose; on the following described property:

A tract of land in the SE/4 of the NE/4 of Section 27, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows, to-wit:

BEGINNING at the NE/c of the SE/4 of the NE/4 of said Section 27, T-20-N, R-13-E; thence west 45' to the POB; thence west 160', thence south 330'; thence east 214'; thence north 164' thence south 48'; thence north 166' to POB, less the east 35' of the south 164' of said tract for road purposes; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15599

Action Requested:

Variance of the front yard requirement from 25' to 18', measured from the front property line, to allow a 7' addition to an existing attached garage - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2710 South Sheridan.

Presentation:

The applicant, **Cannon Construction Company**, 10301-F East 51st Street, Tulsa, Oklahoma, was represented by **David Cannon**, who informed that he is the contractor for the project. He submitted a plot plan (Exhibit H-3), a plat of survey (Exhibit H-2) and photographs (Exhibit H-1), and explained that a 9' addition to the existing dwelling is proposed. Mr. Cannon stated that the houses along the street are not in alignment.

Comments and Questions:

Ms. White asked if the proposed construction will extend closer to the street than other houses in the block, and Mr. Cannon stated that it will not be closer than the other homes.

Protestants: None.

Case No. 15599 (continued)

Board Action:

On **NOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Boizie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to **APPROVE** a **Variance** of the front yard requirement from 25' to 18', measured from the front property line, to allow a 7' addition to an existing attached garage - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per survey submitted; finding that there are similar encroachments in the area, and the granting of the request will not impair the spirit, purposes and intent of the Code or the Comprehensive Plan; on the following described property:

Lot 5, Block 9, Boman Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15600

Action Requested:

Variance to increase the height of a nonconforming outdoor advertising sign from 39'11" to 60'. Sign is adjacent to an elevated freeway of more than 10' above grade - **Section 1401.B.1. NONCONFORMING USES OF UNIMPROVED LAND**, under the terms of **Section 1221.G.11. Use Conditions for Outdoor Advertising Signs** - Use Unit 21, located 5201 S. Mingo Valley Expressway.

Presentation:

The applicant, **David Polson**, 7777 East 38th Street, Tulsa, Oklahoma, stated that he is the lease manager for Donrey Outdoor Advertising, and requested permission to add to the height of a nonconforming outdoor advertising sign. Photographs (Exhibit J-2) were submitted. He explained that the sign was installed in 1984, prior to the extension of Highway 169, and when the construction was completed a concrete retaining wall was erected at this location. Mr. Polson pointed out that the retaining wall blocks approximately 40% of the sign, and the message would not be visible to motorists traveling the highway. He stated that the existing sign is 50' in height, and the current Zoning Code would permit the construction of a new 60' sign by right. A packet (Exhibit J-1) containing an engineering evaluation, permits and a plot plan was submitted.

Comments and Questions:

Mr. Gardner stated that, if the sign in question was not within 1200' of another sign, a 60' sign could be installed without seeking relief from the Board of Adjustment. He pointed out that any alterations to the sign would result in the loss of the nonconforming status; therefore, any approval of the application should be made subject to the removal of the sign by January 1, 1995.

Case No. 15600 (continued)

Mr. Jackere asked if the sign in question has been utilized for outdoor advertising purposes, and Mr. Polson replied that the sign has been used for a public notice since the time of installation.

Mr. Jackere asked the applicant if the sign in question was installed before the sign to the south, and he replied that he has no record of the installation of the sign to the south. Mr. Jackere advised that the City Ordinance states that the nonconforming sign must be removed in 1995.

Mr. Jackere pointed out that an applicant requesting permission to alter an existing sign has the obligation to prove that their sign was installed first.

Mr. Polson stated that he was unable to obtain a copy of the permit for Mr. Stokely's sign to the south, but is not opposed to the condition of approval stipulating that the sign in question is nonconforming and will be removed in 1995.

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** to increase the height of a nonconforming outdoor advertising sign from 39'11" to 60'. Sign is adjacent to an elevated freeway of more than 10' above grade - **Section 1401.B.1. NONCONFORMING USES OF UNIMPROVED LAND**, under the terms of **Section 1221.G.11. Use Conditions for Outdoor Advertising Signs** - Use Unit 21; per plan submitted; subject to the sign being removed by January 1, 1995; finding the sign in question to be a nonconforming outdoor advertising sign located within 1200' of another outdoor advertising sign; on the following described property:

Lot 2, Block 12A, Tulsa Southeast Industrial District, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15602

Action Requested:

Special Exception to permit a beauty shop as a home occupation - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 6281 East Latimer Place.

Presentation:

The applicant, **Gretchen Garrett**, 6281 East Latimer Place, Tulsa, Oklahoma, submitted an inspection plat (Exhibit K-1), and requested permission to operate a beauty shop on her property at the above stated location. She informed that the business will be open Monday through Saturday, 9:00 a.m. to 6:00 p.m.

Case No. 15602 (continued)

Comments and Questions:

Ms. White asked Ms. Garrett if she has read the Home Occupation Guidelines, and she answered in the affirmative.

In response to Mr. Bolzle, the applicant stated that the business will be conducted in the accessory building on the property, with the parking and entrance being located on Sheridan Road.

Interested Parties:

Connie Robison, 6281 East Latimer Place, Tulsa, Oklahoma, stated that she will be working in the beauty shop and asked if the parking is to be located behind the building.

Mr. Gardner clarified that the parking is to be in front of the accessory building, and not in front of the residence.

Ms. White asked if both Ms. Robison and Ms. Garrett will be operating the shop, and Ms. Robison stated that she will be operating the shop. She informed that they both reside at this location, however, Ms. Garrett is owner of the property.

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** to permit a beauty shop as a home occupation - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 6; per Home Occupation Guidelines; subject to days and hours of operation being Monday through Saturday, 9:00 a.m. to 6:00 p.m.; subject to ingress and egress from Sheridan only; and subject to all parking being located behind the house and in front of the shop; finding that there are multiple zoning classifications in the area, and the beauty shop will be compatible with the surrounding uses: on the following described property:

Lot 36, Block 16, Maplewood Addition, less 15' by 15' for a gas regulator; City of Tulsa, Tulsa County, Oklahoma.

Case No. 15603

Action Requested:

Special Exception to permit a car wash in a CS zoned district - Section 701. **PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 17**, located at 2616-2618 North Cincinnati.

Presentation:

The applicant, **Robert Hoover**, 2163 North Waco Avenue, Tulsa, Oklahoma, requested permission to install a 4-bay car wash on property at the above stated location.

Comments and Questions:

Ms. White inquired as to the days and hours of operation, and the applicant stated that the business will be open seven days each week, 24 hours a day.

Mr. Bolzle asked if a dryer will be installed, and Mr. Hoover stated that there will be no dryer.

Interested Parties:

Mr. Gardner informed that he has received a letter of support (Exhibit K-2) from an area resident; however, this individual requested that a screening fence be installed on the north.

Mr. Hoover stated that a solid screening fence is proposed along the north boundary.

Protestants: None.

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 to permit a car wash in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 17**; subject to a solid screening fence being installed along the north boundary of the property; and subject to compliance with all pertinent City of Tulsa ordinances; on the following described property:

Beginning 195' north and 33' west of the southeast corner of Section 23, T-20-N, R-12-E; thence west 114.5', north 50', east 114.5', south 50' to POB and Beginning 245' north and 33' west of the southeast corner of Section 234, T-20-N, R-12-E; thence west 114.5', north 50', east 114.5', south 50' to POB in the City and County of Tulsa, Oklahoma.

Case No. 15604

Action Requested:

Special Exception to permit a wedding flower business as a home occupation - **Section 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6, located at 1712 West 78th Street.

Presentation:

The applicant, **Dana Heath**, 1712 West 78th Street, Tulsa, Oklahoma, stated that she has previously operated a wedding flower business, and asked the Board to allow her to resume this type of operation in her home. She explained that the business involves providing wedding flowers and decorations for individual weddings on a contract basis. The applicant stated that the only visible activity at her residence will be an occasional visit from a client to discuss wedding plans. She pointed out that the business will not have a sign on the property or on the delivery van, and the business will be conducted by family members.

Comments and Questions:

Mr. Bolzle asked if the 1200 sq ft building is in place, and the applicant answered in the affirmative.

Ms. Heath stated that the building will be used to assemble the flowers and for storage purposes.

Mr. Jackere asked what type of vehicle will be used for flower delivery, and Ms. Heath stated that she uses a van to pick up and deliver all materials.

In response to Ms. White, the applicant stated that all appointments will be scheduled between the hours of 9:00 a.m. and 7:00 p.m.

Mr. Bolzle asked if the business has been operating at this location, and the applicant informed that she has been living in another state and has recently purchased the property.

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** to permit a wedding flower business as a home occupation - **Section 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6; subject to Home Occupation Guidelines; and subject to hours of operation being from 9:00 a.m. to 7:00 p.m.; finding that the home occupation, as presented, will not be detrimental to the residential neighborhood, and will be in harmony with the spirit and intent of the Code; on the following described property:

The W/2 of the SW/4, SE/4, NE/4, SE/4, less the north 25' thereof for road, Section 10, T-18-N, R-12-E, in the City and County of Tulsa, Oklahoma.

Case No. 15605

Action Requested:

Special Exception to permit music instrument sales and service as a home occupation - Section 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 6.

Variance to permit a small identification sign with the home occupation - Section 404.B.2. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 6, located at the SW/c 1st Street and Memorial Drive.

Presentation:

The applicant, William Wright, 8034 East 1st Street, Tulsa, Oklahoma, submitted photographs (Exhibit L-2), and requested permission to buy, sell and repair musical instruments in his home. He stated that the instruments are sold to school children at a reduced price. Mr. Wright asked that he be allowed to install a small sign on the property. He pointed out that there are three businesses nearby, and a shopping center and bank across the street. Letters of support (Exhibit L-3) were submitted.

Comments and Questions:

Mr. Fuller inquired as to the need for a sign, and the applicant stated that he would like for the public to know about his business.

Mr. Gardner informed that the property to the south of the subject lot is zoned OL, across the street is commercial zoning and all property to the north is zoned commercial, leaving only two residential lots on Memorial Drive between Admiral Boulevard and 11th Street. He explained that light office zoning would have been appropriate for the house to the south and a barber shop could have been approved by special exception, and a small sign would have been permitted by right. Mr. Wright's request, however, was determined to be a commercial enterprise, as it consists of business sales and services. He stated that Staff would not be supportive of commercial zoning, as the dwelling fronts on 1st Street, and a commercial activity would have an adverse impact on the neighborhood.

Mr. Wright stated that the owner of the property to the south has agreed to allow his customers to park in the barber shop parking lot, and that he would anticipate having no more than two customers per day.

Mr. Jones stated that the applicant has requested a sign, based on the fact that the barber shop to the south was granted a business sign.

Case No. 15605 (continued)

Protestants:

Guy Tomlinson, 9119 East 26th Place, Tulsa, Oklahoma, informed that he owns the two properties to the west of Mr. Wright's residence, and is opposed to the home occupation, as it would further aggravate the traffic problem caused by the drive-in bank and the City/County medical facility across the street. He stated that he is also concerned with the impact the business will have on property values in the neighborhood. Photographs (Exhibit L-1) were submitted.

In response to Mr. Gardner, Mr. Tomlinson replied that he is not opposed to the location of the business to the rear of the house, if the access point and parking is off Memorial.

There was Board discussion concerning a curb cut on Memorial, and if this would be permitted by the Traffic Engineering Department.

Applicant's Rebuttal:

Betty Wright, 8034, East 1st Street, Tulsa, Oklahoma, stated that the garage has been converted to a family room, and the business will be conducted in the living room of the home. She stated that the house was purchased with the intent of operating a music instrument sales and service.

Mr. Wright stated that his business will be very limited, with only one or two customers per day.

Mr. Fuller pointed out that a sign on the property would attract more customers to the area, and advised that he could support a true home occupation, with no sign, at this location.

Mr. Bolzie stated that he is in agreement with Mr. Fuller.

Ms. White pointed out that Mr. Wright could have a very lucrative business at this location by using other types of advertising, and voiced a concern with approval of the home occupation with parking on 1st Street.

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 **Special Exception** to permit music instrument sales and service as a home occupation - **Section 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6; and to **DENY** a **Variance** to permit a small identification sign with the home occupation - **Section 404.B.2. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 6; subject to strict compliance with the Home Occupation Guidelines, with days and hours of operation being Monday through Saturday, 10:00 a.m. to 6:00 p.m.; finding the home occupation use, as presented, to be compatible with the area; and finding that any type of business sign at this location, under these circumstances, will be detrimental to the residential neighborhood; on the following described property:

Lot 1, Block 8, Tommy Lee Addition, City of Tulsa, Tulsa County, Oklahoma.

12.06.90:576(18)

Case No. 15606

Action Requested:

Variances of the side yard from 5' to 3'6" and livability space from 5,000 sq ft to 3,900 sq ft - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6.

- Variance to waive the 20% requirement for rear yard coverage of a detached accessory building on a nonconforming lot - **Section 210.B.5 - YARDS** and **Section 1404. NONCONFORMING LOTS** - Use Unit 6, located at 2515 South Cincinnati.

Presentation:

The applicant, **Douglas Galther**, 1704 South Cheyenne, Tulsa, Oklahoma, was represented by **Rex Ruis**, 5838 South Joplin, architect for the project. He submitted a plot plan (Exhibit M-1) and elevations (Exhibit M-3) for a proposed dwelling, and stated that the shape of the lot restricts construction on the lot. He explained that the garage will be located behind the house and the proposed porte cochere will encroach into the side yard setback. A location map (Exhibit M-4) and photographs (Exhibit M-5) were submitted.

Comments and Questions:

Mr. Boizie asked the applicant to state the difference between the the current application and the previously approved application at this location. He replied that this application is the same, however, it was discovered during the application for a building permit that a variance of the livability space was required, and the Board could not consider the 3.6' variance since it was not properly advertised.

Mr. Ruis stated that the area was developed prior to the adoption of the current Zoning Code, and there are numerous homes that have a porte cochere near the lot line, as most of the garages are located to the rear of the property.

In response to Mr. Jackere, Mr. Ruis stated that the garage is not within 3' of the lot line, and that he does not believe that the garage covers more than 20% of the area of the required rear yard. Mr. Jackere stated that it appears that the only relief needed is a variance of livability space and the setback for the porte cochere.

Interested Parties:

Ms. White informed that the Board received one letter of support (Exhibit M-2) for the project.

Case No. 15606 (continued)

Protestants:

Jeffrey Smith, 2523 South Cincinnati, Tulsa, Oklahoma, stated that he objects to the numerous variances that are requested in order to construct the proposed house on the small lot. He pointed out that there are other houses in the neighborhood with 50' lots, however, most of them share a driveway. Mr. Smith stated that other new homes have been constructed in the neighborhood that are very close to the lot line.

Mr. Jackere pointed out that, without a variance of the livability space, a house comparable in size to those in the neighborhood could not be constructed on the 50' lots.

Mr. Gardner advised that the lots in the area are nonconforming and the applicant can demonstrate a hardship by the fact that the Zoning Code has changed since the construction of existing homes in the area.

Carrol Cagle, 2530 South Cincinnati, Tulsa, Oklahoma, stated that other new houses that have been constructed in the area do not blend with the character of the neighborhood. He pointed out that the porte cochere could be deleted from the plans, and eliminate one variance.

Mr. Boizie pointed out that the lot in question was platted as a 50' lot, as were others in the addition.

EIaine Cagle, 2530 South Cincinnati, Tulsa, Oklahoma, requested that the application for a variance of the required side yard be denied.

Suzanne Tips, 2519 South Cincinnati, Tulsa, Oklahoma, informed that her residence is to the south of the lot in question, and that she is also representing Tim Kelly, resident to the north. She stated that she protested the application when it was previously before the Board, and pointed out that the proposed porte cochere will be located only a few feet from her dining room window. Ms. Tips noted that the continual granting of variances in the neighborhood will result in a reduction of property values.

Mr. Boizie pointed out that Mr. Kelly's porte cochere is located within six inches of the property line.

Linda Cain, 2526 South Cincinnati, Tulsa, Oklahoma, stated that she is opposed to the lot being completely covered, and asked that the porte cochere be omitted from the plans.

Case No. 15606 (continued)

Applicant's Rebuttal:

Mr. RuIs stated that the porte cochere is needed because the garage is located to the rear of the property, and pointed out that there are other portes cocheres in the neighborhood that are closer to the property line than the one in question. He stated that the new dwelling will conform to the character of the neighborhood and will be an asset to the area. Mr. RuIs informed that he could construct a house 5' from the side yard boundary lines by right, and pointed out that the porte cochere will provide much more open space than a solid building wall. Only the two posts that support the porte cochere are in question, as the Code permits the roof to extend 2' into the side yard.

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** of the side yard from 5' to 3'6" and livability space from 5,000 sq ft to 3,900 sq ft - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; and to **APPROVE** a **Variance** (if required) to waive the 20 % requirement for rear yard coverage of a detached accessory building on a nonconforming lot - **Section 210.B.5 - YARDS** and **Section 1404. NONCONFORMING LOTS** - Use Unit 6; per plot plan submitted; finding that there are numerous portes cocheres in the neighborhood, some of which are closer to the lot line than the one in question; and finding that the lot and house will be comparable in size to others in the area; finding a hardship imposed on the applicant by the change in the Zoning Code restrictions for the area, the narrow, irregular shape of the lot and the curvature of the street; on the following described property:

Lot 21, Block 7, Sunset Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15607

Action Requested:

Variance to reduce the lot area requirement from 9000 sq ft to 8500 sq ft and the rear yard from 25' to 20' - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, to permit a lot split (L-17328), located on the SW/c East 26th Place South and South Boston Avenue.

Presentation:

The applicant, **Ted Sack**, 110 South Oxford, Suite 131, Tulsa, Oklahoma, submitted a plot plan (Exhibit N-1), and stated that he is representing **John Wise**, owner of Liberty Construction Company. He explained that a duplex has been removed from the tract, and the owner is proposing to split the property into separate lots to allow construction of two dwellings. Mr. Sack stated that the lots across the street to the north are 50' by 140', and the property in

Case No. 15607 (continued)

question is only 36 sq ft short of the bulk and area requirements for the two lots. He informed that the dwellings will front on Boston Avenue, with the south lot containing 8500 sq ft and the north lot in excess of 9000 sq ft. Mr. Sack pointed out that the lot is unique in that the curvature of the street at the corner causes the north lot to be 500 sq ft smaller than the corner lot across the street. He informed that the duplex that previously existed on the lot was closer to the lot line than the proposed construction.

Comments and Questions:

Mr. Gardner asked if the existing sewer would be affected if the lot line was moved 5' to the north, and Mr. Sack stated that the sewer was moved just south of the property line after the lot split was approved. He stated that he was not aware that the lots did not comply with the lot area requirement.

Mr. Jones asked if the lot split was approved subject to Board of Adjustment approval, and Mr. Sack stated that Board approval was not required. He stated that plans for the two dwellings have not been finalized, but footprints are available.

Protestants:

Pierre Anderson, 2661 South Boston Avenue, Tulsa, Oklahoma, stated that the large lot in question is comparable to the other lots on Boston Avenue. He stated that he is not aware of a lot split application, and is opposed to small lots being created at this location. Mr. Anderson pointed out that the homes along Boston Avenue are on large tracts, and requested denial of the variance requests.

Daniel Hitzman, 32 East 26th Place, Tulsa, Oklahoma, stated that he lives to the west of the property in question and is in opposition to the variance requests.

Margaret Pray, 105 East 26th Place, Tulsa, Oklahoma, stated that she lives to the north of the subject property, and is not aware of a lot split on the property. She asked that the application be continued to allow the neighborhood to meet with the applicant concerning the type of construction proposed on the lot.

Additional Comments:

Mr. Gardner advised that the Technical Advisory Committee recommended approval of the lot split, and it may have been stamped in error and filed of record without a hearing before the Board of Adjustment.

There was discussion concerning Planning Commission approval of the lot split, and Ms. White stated that she would like more information before making a decision on the variance request.

Mr. Gardner pointed out that the lot line for the southern lot could be moved 5' to the north and meet all requirements, except for 37 sq ft on the curved corner which has been dedicated, but has the appearance as being part of the lot.

Case No. 15607 (continued)

Mr. Jones informed that he has received additional information concerning the case, and it appears that the lot split was ratified by the Planning Commission through an administrative error, and was not heard by the Board.

Board Action:

On MOTION of BOLZIE, the Board voted 4-0-0 (Bolzie, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bradley, "absent") to CONTINUE Case No. 15607 to December 20, 1990, to allow the Legal Department sufficient time to review the lot split, and allow the applicant to meet with the neighbors to discuss building plans.

OTHER BUSINESS

Review and Discussion

Terry Wilson, planning chairman for District 5, stated that many City residents are becoming victims of contractors that construct carports and other structures without acquiring a Building Permit.

Mr. Jackere advised that he has drafted a revision to the Building Code that places the responsibility on the contractor to notify the property owner of the requirement for obtaining a Building Permit. He pointed out that the owner would then have a cause of action against the contractor if he did not obtain the necessary permits.

Mr. Fuller stated that some type of fine should be imposed because, even though the property owner has a cause for action, the attorney fees will be extensive, and may cost more than the structure in question.

Mr. Jackere advised that in the past there was a move to require a license for builders, and the City Commission met a lot of resistance from the professional building community, as well as the homeowner community. He stated that they decided that the time was not right to impose that requirement. He pointed out that many property owners may allow work to be done on their property without a Building Permit in order to save money. Mr. Jackere stated that the Board could recommend to the Council that they consider amending the Building Code to require licensing, or write a letter to the Mayor's office explaining that carport cases are coming to the Board after the fact, with no Building Permit having been obtained before construction, and recommend that more responsibility be placed on the contractor. He suggested that a newspaper article state that Building Permits are required before any construction begins.

Mr. Wilson suggested that information alerting the public of the necessity for acquiring Building Permits could be inserted in the City water bill. He stated that the City has an obligation to make citizens aware of the process for installing a carport, or completing any other type of construction on their property.

Review and Discussion (continued)

Mr. Jackere pointed out that the construction of an illegal carport is a violation of the law by the contractor, and perhaps the homeowner; however, allowing it to remain in place is beyond the control of the contractor. In this type of case the contractor can be fined a maximum of \$500.00.

It was the consensus of the Board that the strict enforcement of the law concerning Building Permits, and the imposing of maximum fines by the judicial system could alleviate most of the illegal construction of carports in the City of Tulsa.

Mr. Jackere stated that, in the case of misrepresentation by the contractor, the homeowner can recover all expenses incurred in the process of removing an illegal structure.

Mr. Chappelle pointed out that, in many cases heard by the Board, the homeowner has constructed the carport, and a contractor is not involved.

Mr. Wilson stated that he has sent letter concerning this issue to the Mayor, the City Councilor representing his district and the City Legal Department.

Mr. Bolzie stated that the Board could draft a proposal concerning this issue and present it to the City Council for their consideration.

Review and Approval of 1991 Meeting Schedule

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 the 1991 Meeting Schedule, as presented.

There being no further business, the meeting was adjourned at 5:20 p.m.

Date Approved Dec. 20, 1990

Sherry Q. White
Chairman