

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 587
Tuesday, May 28, 1991, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, May 24, 1991, at 12:28 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 **BRADLEY**, the Board voted 3-0-1 (Bolzle, Bradley, Chappelle, White, "aye"; no "nays"; Fuller, "abstentions"; Chappelle, "absent") to **APPROVE** the Minutes of May 14, 1991.

UNFINISHED BUSINESS

Case No. 15727

Action Requested:

Special Exception to allow Use Unit 17 (automobile sales and repair business) in a CS District - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17.

Variance of the screening requirements along the property lines in common with an R District (west property line) - **Section 1217 C. 1. - USE UNIT 17 AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions** - Use Unit 17.

Variance to permit open-air storage or display of merchandise offered for sale within 300' of an R District - **Section 1217 C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES** - Use Unit 17, located 2002 North Lewis Avenue.

Variance to waive the all-weather surface requirement for parking area for a period of two years - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17, located 2002 North Lewis Avenue.

Presentation:

The applicant, **Robert Harvey**, PO Box 618, Sperry Oklahoma, was not present.

Case No. 15727 (continued)

Comments and Questions:

Mr. Jones stated that the Board previously approved automobile sales on the property, and the remainder of the application was continued to this date to allow the applicant to determine if a waiver of the all-weather parking would be needed. He informed that the applicant is continuing to investigate this matter, and has requested a second continuance to June 11, 1991.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15727 to June 11, 1991, as requested.

Case No. 15728

Action Requested:

Special Exception to permit parking in an RM-2 District Section 401. **PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use** Unit 10, located 214 West 13th Street.

Comments and Questions:

Mr. Bolzie stated that he will abstain from hearing Case No. 15728.

Presentation:

The applicant, **Bryan Kinney**, PO Box 700424, Tulsa, Oklahoma, stated that the existing house will be removed and the entire lot will be leased for parking.

Comments and Questions:

Ms. Hubbard stated that the applicant will not be permitted to pave the entire lot, since there are setback requirements.

Mr. Jones informed that Mr. Kinney must abide by the 50' setback from the centerline of the street, or seek additional relief.

The applicant stated that he was not aware of the setback requirements, and would have no problem with advertising for additional relief.

In reply to Ms. White, the applicant stated that his plans have not been reviewed by the Department of Public Works (Stormwater Management).

Mr. Jones suggested that the applicant have his plans reviewed by Stormwater Management and the Building Inspector, and return to the Board if additional relief is needed.

Protestants: None.

Case No. 15728 (continued)

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-1 (Bradley, Fuller, White, "aye"; no "nays"; Bolzle, "abstaining"; Chappelle, "absent") to **CONTINUE** Case No. 15728 to June 25, 1991, to allow sufficient time for Stormwater Management and the Building Inspector to review the plans for the parking lot.

MINOR VARIANCES AND EXCEPTIONS

Case No. 15735

Action Requested:

Minor Variance of the required 10' setback to 9.4' along property line abutting a residential district - **Section 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS** - Use Unit 11.

Presentation:

The applicant, **John D. Robinson**, PO Box 26, Tulsa, Oklahoma, 6530 East 74th Street, Tulsa, Oklahoma, stated that he is senior officer at the Guaranty Bank and Trust, and informed that the request is to clear the title to the property in question. A plot plan (Exhibit A-1) was submitted.

Protestants: None.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Minor Variance** of the required 10' setback to 9.4' along property line abutting a residential district - **Section 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS** - Use Unit 11; per plan submitted; finding that the building is existing and the minor variance is required to clear the title to the property:

West 30' Lot 2, and east 50' of Lot 3, Maywood Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15737

Action Requested:

Minor Variance of the required yard, as measured from the centerline of Waco Avenue, from 50' to 40', and a minor variance of the side yard, as measured from the property line, from 5' to 4' to permit construction of a new dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 4502 South Waco.

Presentation:

The applicant, **Jack Blakey**, 1908 West 45th Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit B-1), and stated that he is proposing to construct a dwelling on the property in question. He informed that there is an existing garage on the lot.

Case No. 15737 (continued)

Comments and Questions:

Ms. Hubbard stated that the plans submitted to the INCOG staff contain a detached garage and the plans submitted to the Building Inspector's office do not.

Ms. White asked the applicant if the garage is in use at this time, and he answered in the affirmative.

In response to Mr. Fuller, Mr. Blakey stated that a house was previously on the lot, and a water and sewer tap remain.

Mr. Bolzie asked if the house could be moved back on the lot, and he replied that he could move the house further from 45th Street.

Protestants: None.

Board Action:

On **MOTION** of FULLER, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Minor Variance** of the required yard, as measured from the centerline of Waco Avenue, from 50' to 40'; and **DENY** a **Minor Variance** of the side yard, as measured from the property line, from 5' to 4' on 45th Street to permit construction of a new dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the house can be moved further back on the lot and alleviate the need for the variance request on 45th Street; finding that there are other structures in the area that are as close to the street as the proposed dwelling; on the following described property:

Lot 1, Block 6, Hilldale Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15740

Action Requested:

Minor Exception to approve a revised site plan - **Section 1503. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS AND PERMITS** - Use Unit 4, located 1790 Newblock Park Drive.

Presentation:

The applicant, **Fred Stowell**, Tulsa Fire Department, submitted a plot plan (Exhibit C-1), and stated that the Board has previously approved several small sites at this location. He informed that the previous plan has been revised, and these have been consolidated into one large site.

Comments and Questions:

Mr. Fuller asked why the plans have been revised, and Mr. Stowell stated that the previous plans were submitted prior to acquiring an architect for the project. He informed that the architect has developed a plan that would consolidate the fire garage and the paint and body shop.

Case No. 15740 (continued)

Protestants:

David Girdner, 5511 East 51st Street, Tulsa, Oklahoma, stated that he owns property in the area and is concerned with the proposed construction. He pointed out that there is only one access to the property which causes all traffic to be channeled through the residential area. Mr. Girdner stated that the police car and fire truck traffic create a traffic hazard for residents of the neighborhood. He remarked that the road which now leads to the Fire Department Training Center was blocked for many years and, due to the existing conditions, it is very difficult to rent the homes. Mr. Girdner stated that his family has owned property in the area for approximately 50 years, and the City is creating a costly problem for residents of the area.

Mr. Jackere stated that the Board can require that the access point be closed if the road is on City property.

In answer to Ms. White, Mr. Girdner stated that he did not protest the previously approved plan because he did not receive notice of that hearing.

After a lengthy discussion concerning access to the facility, it was the consensus of the Board that the application should be continued to allow the applicant to return with additional information concerning ownership of Newblock Park Drive and if it can be legally barricaded at the City property line.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15740 to June 11, 1991, to allow the applicant to return with verification of the ownership of Newblock Park Drive.

NEW APPLICATIONS

Case No. 15715

Action Requested:

Special Exception to permit a Use Unit 5 (shelter and counseling for severely physically abused boys) - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 5.**

Presentation:

The applicant, **James Hays**, 5212 East 71st Street, Suite 1200, Tulsa, Oklahoma, submitted a summary of the use and a petition of support (Exhibit D-2). Mr. Hays informed that the use was previously approved for a two year period to determine if the Christopher Youth Center would be compatible with the neighborhood. He stated that they are returning to request permanent approval at this location. Mr. Hays submitted letters of support (Exhibit D-1) and photographs of the property (Exhibit D-3). There were numerous individuals in the audience that indicated support of the application, but did not choose to speak.

Case No. 15715 (continued)

Comments and Questions:

Ms. Bradley Inquired as to the number of residents at this time, and Mr. Hays stated that there are currently 12 children, but the previous approval permitted a maximum of 15.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a Use Unit 5 (shelter and counseling for severely physically abused boys) - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; finding that the Christopher Youth Center has been at the present location for two years and has proved to be compatible with the residential neighborhood; on the following described property:

Lot 1, Block 1, Corrie Lynn Estates, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15729

Action Requested:

Special Exception to permit a Use Unit 5 (residential treatment center) in a residential district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 1414 South Galveston.

Comments and Questions:

Mr. Jones informed that Ms. Turnbo, District 7 chairman, has requested that Case No. 15729 be continued.

Interested Parties:

Norma Turnbo, 1822 South Cheyenne, Tulsa, Oklahoma, informed that both the City and the Historical Society must hear the request, and asked that the application be continued until these hearings take place.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15729 to July 9, 1991.

Case No. 15731

Action Requested:

Variance of the required setback, as measured from the centerline of Utica Avenue, from 50' to 35', and a variance of the required setback, as measured from the centerline of 11th Street, from 50' to 35' - **Section 1221.C.6. General Use Conditions for Business Signs** - Use Unit 21, located 1659 East 11th Street.

Presentation:

Mr. Jones informed that the applicant, **Claude Neon Federal**, submitted an incorrect legal description for Case No. 15731. He suggested that the application be continued to June 11, 1991 to allow sufficient time for readvertising.

05.28.91:587(6)

Case No. 15731 (continued)

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15731 to June 11, 1991, to allow sufficient time for readvertising.

Case No. 15732

Action Requested:

Variance of the required front yard, from 35' to 25' to permit construction of a new single-family dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2821 East 44th Court.

Presentation:

The applicant, **Michael Swinyard**, 4445 South Evanston, Tulsa, Oklahoma, was represented by **Robert Nichols**, 111 West 5th Street, Tulsa, Oklahoma, who submitted a site plan (Exhibit P-1) for the dwelling in question. He explained that the slope of the land from the front to the rear is approximately 10', which resulted in moving the house closer to the street than the Code requires. Mr. Nichols stated that the porch and 2' of the dwelling will be the only portion that will encroach into the front setback, and pointed out that there have been other structures in the area that have been granted similar relief.

Comments and Questions:

Ms. Bradley asked where the slope begins on the lot, and Mr. Nichols replied that the majority of the slope is confined to the rear 20' of the property.

Mr. Bolzie pointed out that setback relief was previously granted in the cul-de-sac because of the curvature of the street and the shallowness of the lot. He pointed out that this lot does not have those characteristics, and asked how many lots are still undeveloped in the addition. Mr. Nichols stated that the south side of 44th Court is undeveloped, and those lots were previously granted rear yard setback variances from 44th Place.

Mr. Bolzie stated that a hardship is not evident, since there is sufficient space to construct the house on the portion of the lot that does not slope.

Mr. Nichols stated that the slope of the land is the hardship, and informed that the house was placed at this location to allow drainage from the lot next door to have a direct flow to the detention pond.

In response to Ms. Bradley, Mr. Nichols stated that the porch has columns, but is not enclosed.

Case No. 15732 (continued)

Mr. Jackere suggested that the columns could be eliminated in front of the dwelling and it would comply more nearly with the Code.

Mr. Bolzie stated that he would like to have a determination by a civil engineer, or a representative of Stormwater Management, that would verify the fact that a surface drainage problem would be created if the house was constructed at the required setback.

Mr. Nichols requested a continuance to allow sufficient time to obtain a hydrologist report to substantiate his claim of a hardship.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15732 to June 11, 1991, to allow counsel for the applicant sufficient time to obtain a hydrology report.

Case No. 15733

Action Requested:

Special Exception to permit automobile sales (Use Unit 17) in a CS District - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located southwest corner of south 120th East Avenue and East 11th Street.

Presentation:

The applicant, **Wanda Taylor**, 2425 South 132nd East Avenue, Tulsa, Oklahoma, was represented by **Rick Coyer**, of the same address. He explained that the building was previously utilized as a service station, however, it has been used for car sales during the past eight or nine years. He asked the Board to approve automobile sales on the subject tract.

Comments and Questions:

Ms. Bradley asked if the lot will only be used to sell cars, and Mr. Coyer answered in the affirmative. He stated that minor repairs will be made on the cars offered for sale, but there will not be an automotive repair business at this location.

In response to Ms. Bradley, Mr. Coyer stated that all minor repairs will be made inside the existing garage.

Ms. White inquired as to the number of cars that will be displayed, and Mr. Coyer replied that the lot will accommodate approximately 30 cars.

In reply to Mr. Fuller, Mr. Coyer stated that the nearest car lot is approximately one-half mile east.

Protestants: None.

Case No. 15733 (continued)

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-0 (Bradley, Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit automobile sales (Use Unit 17) in a CS District - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; subject to a maximum of 30 vehicles; subject to minor repairs being made only to vehicles for sale on the lot, and all repairs being completed inside the existing garage; and subject to no outside storage of materials; finding that there are numerous similar uses along 11th Street, and the sales operation will be compatible with the surrounding area; on the following described property:

Lot 1, Block 1, 11th Street Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15734

Action Requested:

Variance of the required lot width from 60' to 47.1' to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 711 North Norwood.

Presentation:

The applicant, **Billie Hicks**, 9206 East 58th Street, Tulsa, Oklahoma, was not present.

Comments and Questions:

Mr. Jones informed that Ms. Hicks has not contacted Staff in regard to the public hearing.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Fuller, White, "aye"; no "nays"; no "abstentions"; Bolzle, Chappelle, "absent") to **CONTINUE** Case No. 15734 to June 11, 1991 to allow Staff sufficient time to contact the applicant.

Case No. 15736

Action Requested:

Variance of the required separation between outdoor advertising signs from 1200 to 1130 lineal feet to permit a new outdoor advertising sign - **Section 1221.G.2. Use Conditions for Outdoor Advertising Signs** - Use Unit 21, located NE/c I-244 and Highway 75.

Presentation:

The applicant, **Stokely Outdoor Sign Company**, 10111 East 45th Place, Tulsa, Oklahoma, was represented by **Bill Stokely**. He submitted photographs (Exhibit G-1) and stated that the proposed sign will be located on a commercial property on the Martin Luther King Expressway. Mr. Stokely informed that an existing sign is located 1130' to the east of the proposed location. A sign plan (Exhibit G-2) was submitted.

Case No. 15736 (continued)

Comments and Questions:

Ms. Bradley inquired as to the hardship, and Mr. Stokely informed that the curvature of the street would cause the sign to be in the City right-of-way if installed at the 1200' required spacing.

In response to Mr. Fuller, Mr. Jones informed that the zoning is appropriate, but the sign does not comply with the spacing requirement.

Mr. Bolzle remarked that the applicant has made an attempt to comply with the Code, since the sign location has been pushed as far to the west as possible.

In response to Mr. Fuller, Mr. Jackere advised that the applicant has attempted to comply with the required spacing, but moving the sign further to the west would place it in the right-of-way. He suggested that this variance of spacing should be given the same consideration as any other variance request.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bradley, Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required separation between outdoor advertising signs from 1200 to 1130 lineal feet to permit a new outdoor advertising sign - **Section 1221.G.2. Use Conditions for Outdoor Advertising Signs** - Use Unit 21; per plan submitted; finding a hardship imposed by the curvature of the street and the proximity of the tract to the expressway system; on the following described property:

All of Block 5 and all of the vacated alley in said Block 5, and all of Block 6 and all of the vacated alley in Block 6, Berry Addition to the City and County of Tulsa, Oklahoma ; all that portion of vacated Norfolk Avenue lying between Blocks 5 and 6 in Berry Addition to the City of Tulsa, being more particularly described as follows, to-wit: that portion of Norfolk Avenue between the north line of Admiral Boulevard and the west extension of the north line of Block 5 of Berry Addition, the same being the south line of Admiral Place; and the S/2 of vacated Admiral Place from the northerly production of the centerline of the vacated alley in Block 5 , Berry Addition to the City of Tulsa, to the east line of Norfolk Avenue adjoining said Block 5 on the north side thereof; and the W/2 of the south 30' of the E/2 of vacated Norfolk Avenue from the westerly production of the south line of Admiral Place to the southerly right of way line of the St. Louis - San Francisco Railway; and a tract of land lying in the N/2 of the NE/4 of Section 1, T-19-N, R-12-E of the 1BM, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 15738

Action Requested:

Special Exception to permit a church and related uses in an industrial district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 5.**

Special Exception to permit a tent revival and fireworks display on July 3rd and 4th, 1991 - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 2.**

Special Exception to permit a day school (K through 12) and other outdoor recreational uses, per site plan submitted - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 5.**

Comments and Questions:

Mr. Jones clarified that the Staff recommendation concerning the elimination of one of the three entrances has been revised, since the main entrance is to the south, the middle entrance is an overflow for the church use, and the third entrance is for the baseball field only. He informed that Staff finds all three access points to be appropriate on 129th East Avenue.

Mr. Jackere advised that the use of fireworks cannot be considered by the Board.

Mr. Alberty stated that he will withdraw the portion of the special exception concerning fireworks.

Presentation:

The applicant, **Wayne Alberty**, 201 West 5th Street, Tulsa, Oklahoma, submitted a master plan (Exhibit H-1), and informed that he is representing the Willie George Ministries. He explained that church use has been previously approved by the Board, and the church is proposing to erect a tent for the regularly scheduled Wednesday evening service on July 3rd, with a picnic following on July 4th. Mr. Alberty informed that the proper permits are being acquired for the fireworks display. He explained that the church is currently holding services at the Interchange Business Park, and the headquarters for the Willie George Ministries is also located on the property. Mr. Alberty stated that the church is proposing to build a new 50,000 sq ft facility, with the first phase of construction beginning in June of 1992. He informed that a 13-acre recreation area appears on the master plan, but will not be completed at this time.

Comments and Questions:

Ms. Bradley asked if parking is provided to the south, and Mr. Alberty answered in the affirmative. He informed that the extreme southwest portion of the property is located in a flood area and will not be developed.

In response to Mr. Fuller's inquiry as to school use, the applicant informed that a day school was included in the application, but this is a use that is planned in the future. Mr. Alberty stated that the school will not be opened until the new church building has been completed.

Case No. 15738 (continued)

Ms. Bradley asked the applicant if he is in agreement with the conditions recommended by Staff, and he replied that the church will comply with those recommendations.

Board Action:

On MOTION of BRADLEY, the Board voted 4-0-0 (Bradley, Bolzie, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to APPROVE a Special Exception to permit a church and related uses in an industrial district - Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 5; to APPROVE a Special Exception to permit a tent revival on July 3rd and 4th, 1991; and WITHDRAW a Special Exception to permit fireworks display on July 3rd and 4th, 1991 - Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 2; and to APPROVE a Special Exception to permit a day school (K through 12) and other outdoor recreational uses, per site plan submitted - Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 5; per master plan submitted; subject to the applicant returning to the Board for approval of any significant deviation in the depicted school location; subject to all outdoor lighting, such as baseball field or tennis courts, should be directed away from abutting properties; subject to compliance with the City of Tulsa Subdivision Ordinance and Department of Public Works Flood Hazard Regulations; and subject to all landscaping being completed, as detailed in the submitted site plan; finding that church use is compatible with the surrounding IL zoning, and that temporary tent use on July 3rd and 4th, 1991, will not be detrimental to the area; and finding that the Board of Adjustment does not have the authority to permit a fireworks display; on the following described property:

Part of the SW/4 Section 33, T-20-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma according to the U.S. Government survey thereof; being more particularly described as follows, to-wit: The E/2 NW/4 SW/4 of said Section 33; and the W/2 NW/4 SW/4 of said Section 33; less and except the following described tract, to-wit: Beginning at a point in the west boundary of said W/2 NW/4 SW/4, 977.65' from the NW/c thereof; thence along the northeasterly boundary of the Crosstown Expressway (I-244) as follows: south 86°43'20" east a distance of 50.14'; thence south 01°00'51" east a distance of 100.00'; thence north 88°58'09" east a distance of 104.86'; thence south 01°00'51" east a distance of 240.00' to a point in the south boundary of said W/2 NW/4 SW/4, 509.34' from the SE/c thereof; thence south 88°40'13" west along the south boundary of said W/2 NW/4 SW/4 a distance of 155.00' to the SW/c thereof; thence north 01°00'51" west along the west boundary of said W/2 NW/4 SW/4 a distance of 343.75' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15739

Action Requested:

Variance of the required front yard, as measured from the centerline of East 22nd Place, from 50' to 47', and a variance of the required side yard, as measured from the centerline of Pittsburg Avenue, from 55' to 46' to permit the enclosure of a porch - Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6, located 4067 East 22nd Place.

05.28.91:587(12)

Case No. 15739 (continued)

Presentation:

The applicant, **Kevin W. Franklin**, was represented by **Carol Franklin**, 4067 East 22nd Place, Tulsa, Oklahoma, who stated that she is proposing to enclose an existing porch. A plat of survey (Exhibit J-3), photographs (Exhibit J-1) and a letter of support (Exhibit J-2) were submitted.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bradley, Boizle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required front yard, as measured from the centerline of East 22nd Place, from 50' to 47', and a variance of the required side yard, as measured from the centerline of Pittsburg Avenue, from 55' to 46' to permit the enclosure of a porch - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6**; per plat of survey submitted; finding that the applicant is proposing to enclose an existing porch which is encroaching into the required setback; and finding that the enclosure will not be closer to either street than the existing house; on the following described property:

Lot 7, Block 14, Jefferson Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15741

Action Requested:

Variance of the maximum square footage permitted for a detached accessory building, from 750 sq ft to 996 sq ft to allow construction of a new accessory building - **Section 401.B.1.d ACCESSORY USES IN RESIDENTIAL DISTRICTS, Use Conditions - Use Unit 6.**

Presentation:

The applicant, **Roger Greene**, 2220 East 17th Place, Tulsa, Oklahoma, who submitted a plot plan (Exhibit K-1) and plat of survey (Exhibit K-2) for the proposed construction, informed that the existing garage space has been utilized as a workout room since approximately 1983. He stated that the hardship for the variance request is the fact that there is no family room in the house and, therefore, no place for inside family activities. Mr. Green explained that he is a retired martial arts instructor, but continues to practice his skills in the home. The applicant submitted photographs (Exhibit K-4) of other detached accessory buildings in the area, and pointed out that the proposed building will not extend further out than the front of his neighbors garage. Mr. Greene stated that there is one existing building on the property which is used as a tool shed.

Comments and Questions:

Mr. White asked if plumbing and heating will be installed in the new addition, and the applicant informed that the new building will have plumbing and heating, as does the existing garage.

Case No. 15741 (continued)

In response to Mr. Fuller, the applicant stated that he can remove the 8' by 16' accessory building if the variance is approved.

Protestants:

Roger and Sharon Ruth, 2224 East 17th Place, Tulsa, Oklahoma, stated that they live next door to the property in question and submitted a letter of opposition and photographs (Exhibit K-3). Mr. Ruth informed that his family shares a driveway with the applicant and at times there are several cars parked on the street and in the driveway. He stated that children and adults visit the property wearing karate uniforms, and numerous vehicles are parked in front of his property, obviously waiting to pick up their children. Mr. Ruth stated that cars also park in the driveway for long periods of time, and some individuals have been observed walking along the fence feeding his dog and playing in the yard. He stated that this type of operation will have a negative impact on the area and lower property values.

Ms. Bradley asked Mr. Ruth when he noticed increased traffic on the property, and he replied that the apparent business has been operating approximately one month. Mr. Ruth informed that Code Enforcement has been contacted concerning the issue.

Thomas P. Dowdell, 2215 East 18th Street, Tulsa, Oklahoma, stated that his back yard abuts the yard of the applicant, and is opposed to the operation of a business in a residential area.

June Garrett, 2260 East 17th Place, Tulsa, Oklahoma, stated that her house sets to the back of the lot and is parallel with the garage on Mr. Greene's property. She informed that many people visit the property, and feels that the increased traffic is an invasion of her privacy.

Interested Parties:

Karen Greene, 2220 East 17th Place, Tulsa, Oklahoma, informed that she has lived at the present location for 15 years and has always had friends come to her home to work out, but they did not wear karate uniforms. She explained that they have retired from martial arts and only have friends and members of the karate club visit their home.

Mr. Fuller asked if they accept money for their services, and Ms. Greene stated that she and her husband have full time jobs and do not receive money from the members of the club.

Mr. Fuller asked if activity has increased during the last month, and Ms. Greene answered in the affirmative.

Ms. Bradley remarked that a hardship has not been presented that would warrant the granting of a variance request.

Mr. Jones advised the applicant that the existing 8' by 16' building may violate rear yard requirements.

Case No. 15741 (continued)

Board Action:

On **MOTION** of FULLER, the Board voted 4-0-0 (Bradley, Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **DENY** a **Variance** of the maximum square footage permitted for a detached accessory building, from 750 sq ft to 996 sq ft to allow construction of a new accessory building - **Section 401.B.1.d ACCESSORY USES IN RESIDENTIAL DISTRICTS, Use Conditions** - Use Unit 6; finding that the applicant failed to present a hardship for the variance request; and finding that the addition of a third structure in the rear yard would be detrimental to the neighborhood and violate the spirit and intent of the Code; on the following described property:

Lot 6, Block 1, Woodward Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15742

Action Requested:

Variance to allow a two-story detached accessory building and a variance of permitted rear yard coverage from 20% to 48% (approximately 200 sq ft to 450 sq ft) - **Section 210. YARDS** - Use Unit 6.

Variance of the required livability space per dwelling unit from 4000 sq ft to approximately 2600 sq ft to permit construction of a garage - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 1540 South Delaware.

Presentation:

The applicant, **James Brown**, 1540 South Delaware, Tulsa, Oklahoma, submitted a plot plan (Exhibit L-1) and stated that he is proposing to demolish a two-story dilapidated garage and replace it with a new two-car garage with a floored storage area above. He explained that the new 20' by 30' structure will be approximately 5' taller than the existing garage, and about 1' larger in all directions. A letter of support (Exhibit L-2) and photographs (Exhibit L-3) were submitted. Mr. Brown informed that there will be no plumbing installed in the upper floor of the garage, and the stairs will pull down for access to the storage area.

Comments and Questions:

Ms. Bradley inquired as to the height of the proposed structure, and the applicant stated that it will be 18', which will not be taller than other buildings in the area.

Ms. Hubbard advised that the existing building does not comply with the current livability space requirement, and the flooring in the attic causes the building to become a two-story structure, according to the Code.

Protestants: None.

Case No. 15742 (continued)

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-1 (Bradley, Bolzle, Fuller, "aye"; no "nays"; White, "abstaining"; Chappelle, "absent") to **APPROVE** a **Variance** to allow a two-story detached accessory building and a variance of permitted rear yard coverage from 20% to 48% (approximately 200 sq ft to 450 sq ft) - **Section 210. YARDS** - Use Unit 6; per plot plan submitted; subject to the filing of a covenant limiting the upstairs portion of the garage to storage use only (no dwelling); finding that there are numerous structures in the area that are similar in size to the proposed garage, and the granting of the variance requests will not be detrimental to the neighborhood, or violate the spirit, purposes and intent of the Code; on the following described property:

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

Case No. 15743

Action Requested:

Variance of the required 500' separation required between a sexually-oriented business and a residentially zoned area in order to continue an existing business - **Section 705.B.5. LOCATION OF SEXUALLY-ORIENTED BUSINESSES**, Prohibition, 500' from areas zoned residential - Use Unit 12, located northwest corner 31st Street and Yale Avenue.

Comments and Questions:

In response to Ms. Bradley, the applicant stated that he is before the Board at this time because the amortization period will soon be ending and the proprietor of Toppers requested that he appear before the Board to request permission to operate the business at the present location.

Presentation:

The applicant, **Brian Curthoys**, 1408 South Denver, Tulsa, Oklahoma, submitted a plot plan (Exhibit M-1) and photographs (Exhibit M-2) of the surrounding area. He informed that the sexually oriented business has been in operation at this location since October of 1986, at which time the spacing requirement was 300' from areas zoned residential. Mr. Curthoys stated that the spacing requirement has been changed to 500' since that time. He pointed out that the use in question is isolated, with the Broken Arrow Expressway to the north and commercial development to the south. The applicant stated that a hardship is imposed on the owner by the irregular shape of the property. Mr. Curthoys stated that the use is not visible from the residential district to the south, and it appears that the area behind the residential use is utilized for parking. He pointed out that a portion of the subject property can meet the 500' spacing requirement, and the impact on the area to the south would be the same if the existing building is razed and another building is constructed on the portion that complies with the spacing requirement.

Comments and Questions:

Ms. Bradley asked the applicant if Toppers is 500' from the nearby church property, and he replied that the distance between that property and the sexually-oriented business complies with the Code.

Protestants:

John Stewart, president of First Stewart Corporation, stated that the corporation owns and operates the KVOO radio station building located across the expressway from the property in question. He stated that the sexually-oriented business is not compatible with the surrounding area, and asked the Board to deny the variance request. Mr. Stewart stated that the radio station is in operation 24 hours a day and is concerned about the safety of the employees. He pointed out that there are no other sexually oriented businesses in the area.

Ms. Bradley asked Mr. Stewart if his employees have experienced any problem with the customers at Toppers, and he replied that he is not aware of a problem.

Mr. Bolzle asked Mr. Stewart if Toppers can be seen from the KVOO building, and he replied that the back of the business is visible.

Mr. Jackere pointed out that the fact that Toppers is at this location would preclude any other business from being within a 1000' of the business.

Mr. Stewart stated that, if the Board could vary the required distance from a residential area, it could also vary the distance between sexually-oriented businesses.

Robert Parker, 4633 East 31st Street, Tulsa, Oklahoma, stated that he was represented by two attorneys when Toppers was initially permitted to occupy the building, and his efforts to prevent the use were defeated. He informed that he owns the property to the west and the value of his property decreased after the approval of the application. Mr. Parker stated that he was informed that the business would be required to relocate after a five year period, so he has been ignoring the fact that Toppers' patrons parked on his property, littered the area and destroyed the landscaping. He pointed out that his business next door employed 23 women that were afraid to work in the evening and he was forced to relocate. Mr. Parker stated that his property has remained vacant and attempts to sell it have been unsuccessful. He asked the Board to deny the application.

Ms. White asked Mr. Parker if patrons of the business have damaged his property, and he replied that they have parked on his property and backed over the shrubs.

Case No. 15743 (continued)

Ms. Bradley asked if he has confronted the owner of Toppers with this information, and he replied that he felt that communication with the owner would not be in the best interest of his empty building next door.

Ms. White pointed out that the business in question is allowed by right in a CS District, and Mr. Jackere informed that the business was allowed by right in 1989 when the business began operation.

Mr. Jackere clarified that the five year period which was earlier referred to by Mr. Parker, was for businesses that pre-existed when the 1980 Ordinance was adopted. He stated that these businesses had five years to relocate.

Mr. Bolzle pointed out that the intent of the Code is the separation from residential areas, and the neighborhood is adequately separated by intervening buildings and by major streets.

Mike Austin, 3131 South Yale Avenue, Tulsa, Oklahoma, asked the Board to adhere to the letter of the Code and deny the application. He pointed out that the business is not a good advertisement for Tulsa and is detrimental to the area.

D. M. Rife, 6373 East 30th Place, Tulsa, Oklahoma, stated that he is representing members of the Yale Avenue Christian Church, who are opposed to the application.

Mr. Jackere informed that the City has chosen to space these types of businesses instead of clustering, as some cities have done, and the Supreme Court has ruled that they must be allowed to exist.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-1-0 (Bradley, Bolzle, White, "aye"; Fuller, "nay"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required 500' separation required between a sexually-oriented business and a residentially zoned area in order to continue an existing business - **Section 705.B.5. LOCATION OF SEXUALLY-ORIENTED BUSINESSES**, Prohibition, 500' from areas zoned residential - Use Unit 12; subject to the business being limited to the existing building only, with no expansion of the structure; finding that the business is allowed by right in a CS District; and finding that the business is visually separated from the residential area by intervening buildings and by a major street; on the following described property:

Beginning 50' north and 50' west of the SE/c of the SE/4 of the SE/4; thence north 89°59' west for a distance of 304.68'; thence north 0°6' west for a distance of 190.28'; thence in a southerly direction for a distance of 359.54' to the POB, Section 16, T-19-N, R-13-E, City and County of Tulsa, Oklahoma.

Case No. 15744

Action Requested:

Variance of the required front yard, as measured from the front property line, from 25' to 3' to permit construction of a new carport - Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS - Use Unit 6, located 2334 West 44th Street.

Presentation:

The applicant, **Max Givens**, 2334 West 44th Street, Tulsa, Oklahoma, submitted photographs (Exhibit N-2) and requested permission to construct a carport in front of his garage. He informed that large pecan trees in the front and a wide easement in the back prevent the construction of the carport at another location on the lot. Mr. Givens stated that there are four carports around the corner from his home, and the neighbors are in support of the project. He informed that the carport will align with the house next door, due to the curvature of the street in the cul-de-sac. Mr. Givens stated that the a carport will prevent his garage from flooding during heavy rains.

Comments and Questions:

Mr. Jackere asked if the carport will be in front of the garage, and the applicant answered in the affirmative.

Mr. Jackere inquired as to the type of easement that is located behind the house, and the applicant replied that it is a 50' underground utility easement.

Protestants:

Edith Pritchard, 2215 West 44th Street, Tulsa, Oklahoma, submitted a petition of opposition (Exhibit N-1), and stated that the houses around the corner that have carports are not in Sherwood Forest Addition. She pointed out that carports are contagious and when one is approved in a neighborhood other residents want carports too. She asked the Board to deny the application. Ms. Pritchard stated that some of the neighbors believe that a business is being operated on the property.

Additional Comments:

Mr. Jackere asked Ms. Pritchard if she has evidence that a business is being operated on the property, and she replied that she has no evidence, but the neighbors think that some type of truck cleaning business is in operation.

Mr. Jackere remarked that the carport in question is similar to a previously denied carport that had been constructed over the setback line.

Case No. 15744 (continued)

Applicant's Rebuttal:

Mr. Givens stated that there are two carports located in Sherwood Forest Addition. He informed that he sells car wash equipment on a part time basis, but does not operate the business from his home.

After discussion, it was the consensus of the Board that a hardship had not been demonstrated that would warrant approval of the application.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Fuller, White, "aye"; no "nays"; no "abstentions"; Bolzie, Chappelle, "absent") to **DENY** a **Variance** of the required front yard, as measured from the front property line, from 25' to 3' to permit construction of a new carport - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; finding a hardship was not presented that would warrant approval of the variance request; and finding that the construction could be placed at another location on the lot without encroaching into required setbacks; on the following described property:

Lot 13, Block 3, Sherwood Forest Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 15747

Action Requested:

Little Light House - 5120 East 36th Street - Requests withdrawal of application and refund of fees in the amount of \$150.00.

Comments and Questions:

Mr. Jones informed that Case No. 15747 was withdrawn prior to processing, and suggested a refund of \$150.00, as requested by the applicant.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 3-0-0 (Bradley, Fuller, White, "aye"; no "nays"; no "abstentions"; Bolzie, Chappelle, "absent") to **WITHDRAW** Case No. 15747 and **REFUND** filing fees in the amount of \$150.00; finding that the case was withdrawn prior to processing.

Case No. 15730

Action Requested:

Robert E. Parker and Associates - 4407 East 11th Street - Request withdrawal of application and refund of filing fees in the amount of \$25.00.

Comments and Questions:

Mr. Jones informed that Case No. 15730 had been processed prior to the withdrawal request, and suggested that \$25.00, the public hearing portion of the application, be refunded.

Case No. 15730 (continued)

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-0-0 (Bradley, Fuller, White, "aye"; no "nays"; no "abstentions"; Bolzie, Chappelle, "absent") to **WITHDRAW** Case No. 15730 and **REFUND** to the applicant \$25.00, the public hearing portion of the filing fee.

There being no further business, the meeting was adjourned at 4:55 p.m.

Date Approved

June 14, 1991

Harry White
Chairman