

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 599  
Tuesday, December 10, 1991, 1:00 p.m.  
City Council Room, Plaza Level  
Tulsa Civic Center

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Bolzle, Chairman Chappelle Doverspike Fuller White		Jones Moore	Jackere, Legal Department Hubbard, Protective Inspections

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, December 9, 1991, at 9:31 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-1 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; Chappelle, "abstaining"; none "absent") to **APPROVE** the Minutes of November 12, 1991.

**UNFINISHED BUSINESS**

**Case No. 15884**

**Action Requested:**

Special Exception to allow a children's day care center in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 514 East Pine Street.

**Presentation:**

The applicant, **Tulsa Development Authority**, was represented by **Richard Hall**, 111 South Elgin, Tulsa, Oklahoma, who submitted photographs (Exhibit A-2) and a plot plan (Exhibit A-1) for the proposed day care center. Mr. Hall explained that the facility will have a maximum capacity of 78 children and approximately 20 employees. He informed that many of the children will be transferred from a day care that is in operation at another location. In regard to the proposed hours, Mr. Hall stated that the owner of the center would prefer to be open from 6:00 a.m. to midnight, but could reduce the hours of operation to comply with the Board's recommendation. Mr. Hall informed that there will be two curb cuts on Pine to accommodate the business, and the name of the center will be affixed to the building. An information sheet (Exhibit A-3) was submitted.

**Comments and Questions:**

Ms. White asked if the 14 parking spaces will be shared by staff and clients, and Mr. Hall answered in the affirmative. He pointed out that the business is operated in shifts, and 20 employees will not be on the premises at the same time.

Case No. 15884 (continued)

In response to Mr. Fuller, Mr. Hall informed that the subdivision has constructed a masonry wall on their boundary.

In reply to Ms. White, Jean Franks, 436 East Marshall Street, Tulsa, Oklahoma, owner of the proposed day care center, informed that a maximum of 10 employees work on each shift.

In response to Mr. Fuller, Ms. Franks explained that she serves approximately 78 children at other locations, who will be moved to the proposed facility, and the age of the children determines the number of teachers that will be required.

Mr. Bolzle inquired as to the use of the vacant area beside the 14 parking spaces, and Ms. Franks stated that the area will be fenced to provide a storage place for the three vans.

**Protestants:**

William Morrison, 548 East Pine Place, Tulsa, Oklahoma, pointed out that Pine is a heavily traveled street, and is used extensively for EMSA routes. He stated that the added vehicles visiting the day care facility would pose a traffic problem for the neighborhood. Mr. Morrison pointed out that a day care center with activities until midnight would not be in harmony with the residential neighborhood.

**Applicant's Rebuttal:**

Ms. Franks stated that there are many young homeowners in the surrounding subdivisions that are in need of a dependable day care center for their children.

Mr. Morrison stated that the Heritage Hills III Addition is comprised of mostly senior residents, who are not supportive of a day care center in the residential area. He suggested that the property be utilized as a park or some other type of beautification project.

**Comments and Questions:**

In response to Mr. Fuller, Ms. Franks stated that she would prefer to retain the evening shift, which serves clients that work in the evening.

Mr. Bolzle inquired as to the reason for two playgrounds, and Ms. Franks explained that she decided to separate the smaller children from the older children in order to provide a safer play area.

Mr. Bolzle and Ms. White voiced a concern with the limited number of parking spaces for a facility that will provide services for approximately 80 children.

Mr. Hall informed that the proposed 14 parking spaces will exceed the Code requirement for the day care center.

Ms. Franks stated that the center will not begin operation until all required inspections have been completed, and all requirements have been met.

Case No. 15884 (continued)

Mr. Jones clarified that the current Zoning Code requires one parking space for every 1000 sq ft of total gross floor area, which would require only four parking spaces for the proposed business. However, INCOG is completing a parking study which identifies day care centers as one use that does not require sufficient parking. He stated that the recommendation will be to double the current requirement, and this issue will be addressed by the Council in the future. Mr. Jones pointed out that Ms. Franks day care exceeds the recommended amount of parking spaces under the new proposed ordinance amendment.

Ms. White stated that she feels the use is appropriate at this location; however, the fact that street parking is not available could cause traffic to become congested on Pine, and a nighttime business could pose a problem for the abutting residential development.

Mr. Doverspike asked Ms. Franks if her day care business would be profitable if it did not operate until midnight, and she replied that she could operate with a profit, but it would be necessary to discontinue service to approximately 40 children. She pointed out that she has operated a profitable business serving fewer children, but the building in question is too large to limit the number of children to 40.

Mr. Fuller stated that he is not opposed to the business operating until midnight.

Mr. Doverspike voiced a concern with 40 children being picked up at midnight in the residential area, and pointed out that this would actually set the closing time for the center at approximately 1:00 a.m.

Mr. Chappelle stated that he would not be supportive of a day care center operating seven days a week from 6:00 a.m. to midnight.

It was the consensus of the Board that the operation of a day care at this location from 6:00 a.m. to 7:00 p.m. would be compatible with the area.

**Board Action:**

On **MOTION** of FULLER, the Board voted 5-0-0 (Bolzie, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to allow a children's day care center in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; per plan submitted; subject to a maximum enrollment of 80 children, and a maximum of 10 Staff members per shift; subject to compliance with all State requirements; subject to days and hours of operation being from Monday through Friday, 6:00 a.m. to 7:00 p.m.; and subject to a minimum of 21 parking spaces; finding the use, with conditions, to be compatible with the residential neighborhood, and in harmony with the spirit and intent of the Code; on the following described property:

Lots 7, 8, 9 and 10, Block 2, Greenwood Addition, less the north 20', City of Tulsa, Tulsa County, Oklahoma.

## NEW APPLICATIONS

### Case No. 15870

#### Action Requested:

Special Exception to permit Use Unit 5 uses in an RM-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 6202 East 61st Street.

#### Presentation:

The applicant, **Skyline Terrace**, was not represented.

#### Protestants: None.

#### Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzle, Chappelle, Fuller, White, "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to **CONTINUE** Case No. 15870 to December 27, 1991.

### Case No. 15885

#### Action Requested:

Variance of the permitted 32 sq ft for a sign to 48 sq ft - **Section 602.B.4.a. Accessory Use Conditions** - Use Unit 11, located 5906 East 31st Street.

#### Presentation:

The applicant, **Bob Dale**, 2720 East King Place, Tulsa, Oklahoma, submitted a sign plan (Exhibit B-1), and explained that his client is proposing to install a new sign on property that is not readily visible to motorists on 31st Street, due to its location at the base of a hill. He pointed out that a 32 sq ft sign is permitted on both Joplin and 31st Street, and requested that all signage be combined to permit a 48 sq ft sign only on 31st Street.

#### Comments and Questions:

Ms. White asked if a sign is currently in place on Joplin Avenue, and the applicant stated that there is no sign on Joplin.

In response to Mr. Bolzle, the applicant stated that his client has lettering on the building, but no signage on the street.

In response to Mr. Fuller, Mr. Jones stated that the applicant is permitted to have lettering on the building, as well as a ground sign.

Mr. Dale informed that there are four doctors practicing in the clinic and they are requesting permission to use 4" lettering on the sign.

Mr. Doverspike asked Mr. Dale if the sign would be in compliance with the Code if the doctor's names were omitted, and he answered in the affirmative.

Case No. 15885 (continued)

Mr. Jackere informed that in computing display surface area for general business signs, the Code states that the lineal footage of an abutting nonarterial street shall not be combined with lineal footage of an abutting arterial street.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzie, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of the permitted 32 sq ft for a sign to 48 sq ft - **Section 602.B.4.a. Accessory Use Conditions** - Use Unit 11; finding that the applicant is permitted by right to install 32 sq ft of signage on two abutting streets; and finding that a hardship was not presented that would warrant the granting of the variance request; on the following described property:

Lot 12, Block 1, Lorraine Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15886**

**Action Requested:**

Special Exception to permit Use Unit 5 for school use in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the required 50' setback from the centerline of East 62nd Street South to 35' - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5, located 10100 East 61st Street.

**Presentation:**

The applicant, **Union Public Schools**, was represented by **Robert Yaden**, 3227 East 31st Street, Suite 200, Tulsa, Oklahoma. Mr. Yaden submitted a plot plan (Exhibit C-1) and explained that Union School District has recently purchased three lots adjacent to the original school site, which contain three dwellings. He stated that the school plans to remove the houses and construct new buildings for school use. Mr. Yaden informed that construction will be completed in two phases, with Phase I being completed in August of 1993, and Phase II in 1995. He stated that 300 parking spaces will be provided.

**Protestants:** None.

**Board Action:**

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-1 (Bolzie, Chappelle, Doverspike, White, "aye"; no "nays"; Fuller, "abstaining"; none "absent") to **APPROVE** a **Special Exception** to permit Use Unit 5 for school use in an RS-3 zoned district - **Section 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the required 50' setback from the centerline of East 62nd Street South to 35' - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 5; per plot plan submitted; finding that the property in question will provide additional space for expansion of the existing school, and the proposed construction will not extend closer to the street than the dwellings currently located on the property; on the following described property:

Case No. 15886 (continued)

Part of the NW/c Section 6, T-18-N, R-14-E, plus Lots 1, 2 and 3, Block 2, Union Gardens Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15887**

**Action Requested:**

Special Exception to permit Christmas tree sales on a seasonal but permanent 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 sell Christmas trees on the subject property during the 1991 and 1992 Christmas season.

**Comments and Questions:**

Mr. Bolzle asked the applicant if he acquires a lease each year, and he answered in the affirmative. Mr. Kays added that the space for the tree lot is available to him as long as the grocery store on the property is vacant.

Mr. Jones inquired as to the actual amount of space leased for the sales operation, and the applicant replied that he leases a 90' by 75' space on the northwest corner of the tract.

Mr. Jackere advised that each 30-day period for temporary sales requires a new application, and pointed out that the applicant does not have a lease permitting him to sell Christmas trees on the subject property in 1992.

Mr. Doverspike stated that he opposed to setting a precedent by approving Christmas tree sales at any given location for more than one year.

**Protestants:** None.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 4-0-1 (Bolzle, Chappelle, Doverspike, White, "aye"; no "nays"; Fuller, "abstaining"; none "absent") to **APPROVE** a **Special Exception** to permit Christmas tree sales during the 1991 Christmas season only - **Section 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2; subject to the sales being limited to a 90' by 75' space on NW/c of the property in question; finding that the property is vacant and the temporary use is compatible with the surrounding area; on the following described property:

A parcel of land 90' by 75' located on the NW/c of the following: Lots 9 and 10, and the west 181.02' of Lot 11, and the north 50' of the east 125' of Lot 11, Block 19, Bellaire Acres Extended Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15888**

**Action Requested:**

Variance to permit a billboard that has been vacant for over 180 days - Section 1403.A.3. Nonconforming Signs - Use Unit 21, located 1004 East 4th Street.

**Presentation:**

The applicant, Reynolds Outdoor, Inc., was represented by Mark Byers, 5100 East Skelly Drive, Tulsa, Oklahoma.

**Comments and Questions:**

Mr. Jackere asked Mr. Byers if his company received a citation in regard to the sign, and he answered in the affirmative. He asked Mr. Byers if he was aware that only the south face of the sign can be utilized, and he replied that he was aware of that restriction. In review of the case, Mr. Jackere advised that Omni, owner of the sign in 1985, requested a variance of spacing between the sign in question and another advertising sign and, at that time, a question arose concerning the sign corridor. Mr. Jackere stated that the Board denied the request, which was reversed in District Court on the grounds that each side of the sign was in a different corridor and served travelers on different highways. He advised that the Court permitted only the south face to be used, serving only north bound travelers. He pointed out that a variance was granted, therefore, the sign is not a nonconforming sign, and there is no provision stating that a sign being granted a variance must be removed if it is vacant for over 180 days. Mr. Jackere advised the Board that, if they make the finding that the sign is not nonconforming, the case should be dismissed, because the applicant is not in need of the relief requested.

Mr. Jones asked the applicant if the sign has been utilized since the variance was approved by District Court, and Mr. Byers stated that he is not sure if the sign has been used since that time. Mr. Jones pointed out that the approval of the variance would have lapsed after three years if the sign was not used.

**Board Action:**

On MOTION of FULLER, the Board voted 5-0-0 (Boizie, Chappelle, Fuller, White, "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to DISMISS Case No. 15888, finding that the sign in question is not a nonconforming sign as relates to the south face only (to be viewed by motorists traveling north) and the requirements for a nonconforming sign are not applicable.

**Case No. 15889**

**Action Requested:**

Variance of the required 75' setback from the centerline of Mingo to 67.5' to permit a covered patio - **Section 403. BULK AND AREA REQUIREMENTS FOR RESIDENTIAL DISTRICTS** - Use Unit 6, located 9516 East 99th Place.

**Presentation:**

The applicant, **Thomas Patterson**, 9516 East 99th Place, Tulsa, Oklahoma, was represented by Ms. Patterson, who submitted a plot plan (Exhibit E-1) for a proposed 11' by 44' patio cover. She informed that building setbacks prohibit the construction of the cover and, if adhered to, would only permit the structure to be 3 1/2' wide. Ms. Patterson stated that the materials used for the cover will be the same as those used for the existing dwelling. She stated that the lot is irregular in shape and is not as deep as the other lots in the cul-de-sac.

**Comments and Questions:**

Mr. Jones informed that the developer of the subdivision was previously granted a variance of the required setback from 85' to 75', and the applicant is now requesting a variance of the setback from 75' to 67.5'.

Ms. Patterson stated that the builder did not advise her that a variance would be required in order to construct the patio cover.

Mr. Doverspike asked Ms. Patterson if she has discussed the proposed construction with the neighbors to the north and south, and she replied that the lot to the south is vacant, and there has been no opposition to the request from the other neighbors.

Mr. Patterson pointed out that the neighbor to the north has constructed a patio cover on her property.

In response to Mr. Fuller, Mr. Patterson stated that the distance from the back fence to the edge of the patio is 17 1/2', and the existing patio actually extends 7 1/2' into the required 75' setback.

Mr. Bolzie remarked that the depth of the lot in question is less than the other lots in the cul-de-sac, which creates a hardship for the applicant.

**Protestants:** None.



Case No. 15889 (continued)

**Board Action:**

On **MOTION** of FULLER, the Board voted 5-0-0 (Bolzie, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 75' setback from the centerline of Mingo to 67.5' to permit a covered patio (roof only - cannot be enclosed) - **Section 403. BULK AND AREA REQUIREMENTS FOR RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding a hardship demonstrated by the irregular shape and exceptional shallowness of the lot; and finding that the granting of the variance request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

Lot 8, Block 2, Cedar Ridge Village, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 15890**

**Action Requested:**

Special Exception to change an existing nonconforming use by the expansion and addition to the existing structure - **Section 1402.F Nonconforming Use Of Buildings and Land In Combination** - Use Unit 26,

or

Variance of the required setback from the centerline of West 23rd Street to 80' to permit an addition to an existing nonconforming structure - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 26, located 431 West 23rd Street.

**Presentation:**

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma, represented Mid-Continent Concrete Company, and explained that his client is proposing to construct an addition to the existing building that was constructed before the property was annexed into the City limits. Mr. Norman stated that the company requested permission to modify an existing nonconforming use in 1970 and the application was approved by the Board. He informed that the planned right-of-way width of the street is 120' and the right-of-way in front of the subject property between the west end of the 21st Street Bridge and the railroad viaduct is 175'. Mr. Norman stated that the required building setback is 110', with the southeast corner of the existing building being approximately 108' from the centerline of the right-of-way, and the southwest corner approximately 85', due to the angle. The applicant explained that the 20' by 60' addition will permit his client to expand the accounting department, which will require an additional encroachment of approximately 4' on the southwest corner of the building. He pointed out that, in a previous modification request, an approval was given to change an existing nonconforming use; however, as an alternative, he has requested a variance of the required setback to permit an addition to an existing nonconforming structure. A plot plan (Exhibit F-1) and photographs (Exhibit F-2) were submitted.

Case No. 15890 (continued)

Comments and Questions:

Mr. Bolzle asked why the building will encroach further toward the street, and Mr. Norman explained that the building was not constructed parallel to the right-of-way, and the need to align the new addition with an interior wall causes the additional encroachment.

In response to Mr. Fuller, Mr. Jones stated that Staff feels the granting of the special exception would increase incompatibility, because the addition would increase the nonconforming use.

Mr. Jackere advised that Section 1402.F deals strictly with the change of a conforming use.

Mr. Norman stated that he filed for the special exception because the previous expansion was heard and approved under the section regarding nonconforming use of buildings and land in combination.

Protestants: None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **WITHDRAW** a **Special Exception** to change an existing nonconforming use by the expansion and addition to the existing structure - **Section 1402.F Nonconforming Use Of Buildings and Land In Combination** - Use Unit 26; finding that the applicant is not in need of the special exception request; and to **APPROVE** a **Variance** of the required setback from the centerline of West 23rd Street to 80' to permit an addition to an existing structure - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 26; per plot plan submitted; finding a hardship demonstrated by the irregular shape of the tract, the placement of the building and curve of the street/bridge; and finding that the proposed addition will not cause substantial detriment to the area, or violate the spirit, purposes or intent of the Code; on the following described property:

Lot 1, Block 1, McMichael Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15891

Action Requested:

Variance of the required lot width in an AG District from 200' to 165' - **Section 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** - Use Unit 6.

Variance of the required 30' frontage on a dedicated street to 0' - **Section 206. STREET FRONTAGE REQUIRED** - Use Unit 6, located 6246 East 116th Street.

Presentation:

The applicant, **Thomas Kivell**, 6246 East 116th Street, Tulsa, Oklahoma, was not present.

Comments and Questions:

Mr. Jones explained that the application concerns a lot split, and the Technical Advisory Committee required the applicant to change the lot dimensions, which requires readvertising. He suggested that the case be continued to the December 27, 1991 meeting.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzie, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 15891 to December 27, 1991 to allow sufficient time for readvertising.

Case No. 15892

Action Requested:

Variance of the frontage on a public or dedicated right-of-way from 30' to 10' - **Section 206. STREET FRONTAGE REQUIRED** - Use Unit 6.

Minor Variance of the lot width from 100' to 90.26' to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2645 East 41st Street.

Presentation:

The applicant, **Joe Coleman**, 2645 East 41st Street, Tulsa, Oklahoma, informed that this request is identical to the one granted in 1988, however, the three-year time limitation for the previous approval has expired. Mr. Coleman stated that he was unable to develop the land during the approval period, and asked the Board to grant the variance requests a second time. A plot plan (Exhibit G-1) was submitted.

In response to Mr. Doverspike, the applicant stated that a roadway has been moved slightly, but the remainder of the plan has not changed.

Case No. 15892 (continued)

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzie, Chappelle, Fuller, Doverspike, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the frontage on a public or dedicated right-of-way from 30' to 10' - **Section 206. STREET FRONTAGE REQUIRED** - Use Unit 6; and to **APPROVE** a **Minor Variance** of the lot width from 100' to 90.26' to permit a lot split - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the applicant failed to utilize the previously approved application during the three-year approval period, and there have been no significant changes to the plot plan; on the following described property:

Lot 3, Block 3, Deatherage Addition, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 2:35 p.m.

Date Approved Dec 27, 1991

  
Chairman

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 599  
Tuesday, November 26, 1991, 1:00 p.m.  
City Council Room, Plaza Level  
Tulsa Civic Center

Notice of cancellation of this meeting was posted in the Office of the City Clerk on Tuesday, November 26, 1991, at 12:25 p.m., as well as in the Reception Area of the INCOG offices.

Chairman Bolzie advised at 1:00 p.m. that, due to a lack of quorum and timely posting of this meeting, all items will be continued to the next regularly scheduled meeting, December 10, 1991, 1:00 p.m., Francis F. Campbell Council Room.

**NOTE:**

Signs were posted at the meeting room explaining the continuance of all cases to December 10, 1991.