

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 615
Tuesday, August 25, 1992, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle Chappelle Doverspike S. White T. White		Gardner Jones Moore	Jackere, Legal Department Hubbard, Protective Insp. Parnell, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, August 21, 1992, at 9:18 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 **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** the Minutes of August 11, 1992.

UNFINISHED BUSINESS

Case No. 16089

Action Requested:

Special Exception to permit a transmitting tower in an AG zoned district - **Section 1204.C.1. - Use Conditions** - Use Unit 4, located east of Sheridan Road, south side of 61st Street.

Comments and Questions:

Mr. Jones informed that Staff has received a letter from **Mayor Savage** (Exhibit A-1), who was in agreement with a request for continuance (Exhibit A-2) received from **Gerald Wright**, counsel for Cellular One.

Presentation:

The applicant, **City of Tulsa**, was not represented.

Protestants:

The protestants in attendance were not opposed to the continuance request.

Case No. 16089 (continued)

Board Action:

On MOTION of CHAPPELLE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to CONTINUE Case No. 16089 to September 22, 1992, as requested by Mr. Wright.

Case No. 16076

Action Requested:

Special exception to permit Use Unit 14 (shopping goods and services) in an IL zoned district - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICT** - Use Unit 14, or in the alternative, a Special Exception to permit a sexually oriented business in an Industrial District - **SECTION 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES** - Use Unit 14, 7925 East 41st Street.

Presentation:

The applicant, **Robert Floyd**, 6117 Sudbury Drive, Oklahoma City, Oklahoma, was represented by **Gene Howard**, who stated that a lot split on the subject property was approved prior to 1970, and the lot that will be occupied by the applicant is a legal nonconforming lot. He explained that the application is for Kristie's Toy Box, which stocks adult material (Exhibit B-1) for sale. Mr. Howard stated that the business will be located in a IL zoned district adjacent to the Caravan club. He pointed out that the proposed site is not near a residential area, school or church. Mr. Howard stated that his client has applied for a State license to operate the adult bookstore, and has been approved, subject to the Board's approval of the special exception. A layout of the store (Exhibit B-2) and a parking plan (Exhibit B-3) were submitted.

Mr. Floyd clarified that all products are approved by the State, and products to be sold at this location are not associated in any way with children or violence toward women. He informed that the store will be open from 10:00 a.m. to midnight, Monday through Saturday, and from 1:00 p.m. to 10:00 p.m. on Sunday.

Comments and Questions:

Mr. Doverspike asked if minors are restricted from entering the business, and Mr. Floyd answered in the affirmative.

In response to Mr. Bolzle, Mr. Floyd stated that minors will not be permitted inside the building and will not be sold merchandise.

Case No. 16076 (continued)

Mr. Floyd stated that all videos offered for sale at this location will be approved by the State. He informed that all magazines are wrapped, and are not displayed for viewing in the store.

Mr. Doverspike asked if any entertainment, promotional or otherwise, will be provided, and Mr. Floyd stated that there will be no entertainment of any type.

Mr. Bolzle asked if materials will be displayed in the windows, and the applicant stated that there will be no display in the windows; however, it will be possible to view the inside of the store through the windows.

In reply to Mr. Jackere, the applicant stated that there will be no exterior building modifications.

In response to Mr. Bolzle, Mr. Jones advised that the application was taken in two parts, because the Building Inspector had not made a determination whether or not the business would be classified as sexually oriented.

Ms. Hubbard pointed out that a any bookstore, adult or otherwise, at this location would require Board approval.

Mr. Jackere added that the spacing requirement would be the only difference between an application for an adult bookstore and any other type book store at this location. He advised that the issue before the Board is whether or not the intended bookstore is an appropriate retail type use in an IL District.

Mr. Gardner informed that the use would be permitted by right 100' to the east.

Mr. Floyd stated that he applied for a license for a sexually oriented business because he was actually not sure how the bookstore would be classified. He stated that the business will be operated according to the law, and he is not opposed to those regulations.

Protestants:

John Moody, 550 Oneok, Tulsa, Oklahoma, stated that he is representing Thomas Cadillac, Cindy Dodson, William Pearson, and other property owners who have an interest in the application. He informed that it is his determination that the applicant cannot request a special exception on this particular lot under the terms of the Zoning Code and the State Enabling Act of Oklahoma (Exhibit B-4). He noted that a lot split was acquired prior to 1970 and permitted uses in the IL District would be allowed by right; however, special exception uses would not be allowed (Section 904, Tulsa Zoning Code and

Case No. 16076 (continued)

Title 11, Oklahoma Statutes, Section 44-104). Mr. Moody stated that the lot must comply with the bulk and area requirements in order to have special exception uses. Mr. Moody questioned the Board's authority to hear the special exception, because they do not meet the underlying requirements of the Code.

Mr. Jackere advised that the Code states that in nonresidential districts on any lot filed of record on or before July 1, 1970, the permitted use may be permitted on such lot irrespective of its area or width, provided that other requirements of the district are met. He informed that Section 901 states that some uses are permitted by right and some by special exception in Industrial Districts. Mr. Jackere advised that Mr. Moody has stated that the Board does not have the authority to hear the special exception request, and the Board must determine if they have this authority.

Mr. Gardner noted that the same Code, which states that a lot must have 150' of frontage for an industrial use, states that this is to be disregarded if the lot is a nonconforming lot. He pointed out that the use is permitted if the Board finds it to be appropriate.

Applicant's Rebuttal:

Mr. Moody informed that the language on a specific topic will override the general language, and the Code states that in an IL District a special exception use shall comply with the bulk and area requirements. He asked the Board to find that, without the required 150' frontage, the special exception use in question cannot be filed.

Additional Comments:

Mr. Jackere pointed out that, if Mr. Moody's line of reasoning is followed, a commercial use of any type cannot be operated on the lot in question.

In response to Mr. Bolzle, Mr. Jackere advised that special exception uses on nonconforming lots must meet the requirements of Section 1404.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to Determine that the Board has the authority to hear the case as presented.

Case No. 16076 (continued)

Protestants:

Eric Bolusky, District 18 planning chairman, stated that surrounding property owners purchased property in the area based on the uses permitted in the Industrial Zone. He pointed out that traffic flow in the area is poor, and the additional traffic generated by this type of use will add to the existing problem. He pointed out that this type of business tends to deteriorate the neighborhood, and asked the Board to deny the request.

Dr. A. M. Pearson stated that he operates a veterinary hospital, which is located adjacent to the property in question. He pointed out that he is unable to find a parking space in his parking lot when an emergency call is received in the evening hours. He added that vandalism is already a problem in the area.

Lois Thomas DuPree, 3939 South Memorial Drive, Tulsa, Oklahoma, stated that she is president and owner of Thomas Cadillac, and is convinced that the addition of the proposed business will fuel an existing problem caused by the Caravan ballroom. She stated that it is not in harmony with the retail nature of the area. Ms. Dupree stated that the site for Thomas Cadillac was chosen thirteen years ago, with the thought that the zoning in the neighborhood was secure and would be compatible with luxury car sales. She pointed out that it is necessary for her business to have 24-hour security.

Peggy Harrington, stated that she is representing **Irving Sherwood**, 7914-16-18-20 East 40th Street, Tulsa, Oklahoma, and pointed out that the business will add to the existing traffic problem, as there is not a curb cut in front of the building. She informed that it is necessary to travel over other parking lots to access the property.

Nancy Mackey, 7918-B East 40th Street, Tulsa, Oklahoma, represented property owners in the area, and informed that the parking lots are littered with broken glass, and liquor bottles are thrown on nearby roofs. Ms. Mackey stated that an adult bookstore at this location will exaggerate and existing problem for property owners in the area.

Cindy Mildred Dodson, informed that she owns property at 7727 East 41st Street, which is located directly across from the Caravan. Ms. Dodson stated that she has been forced to construct a fence around her property to protect her tenant. She stated that a church has recently leased the building.

Case No. 16076 (continued)

Bill Scheer, 9062 East 95th Street, Tulsa, Oklahoma, stated that he is leasing Ms. Dodson's property for church use. He stated that this corner of the City is not a good location for the adult bookstore.

Mr. Bolzle inquired as to the date of the lease, and Mr. Scheer stated that it was signed on August 18, 1992.

Mr. Doverspike inquired as to the reason for choosing this site for the church, and Mr. Scheer stated that there is a large concentration of kids in the area.

Applicant's Rebuttal:

Mr. Howard stated that his client is not affiliated with and is not leasing from the Caravan ballroom, and pointed out that the cost warehouse recently moved from the area, taking away much more traffic than the adult bookstore would add. He informed that proposed business will not be detrimental to public welfare, or violate the spirit and intent of the Code.

Mr. Floyd stated that the Code requires the business to have 7 parking spaces, and 28 spaces will be provided. He added that a curb cut is depicted on the plat.

Additional Comments:

There was Board discussion concerning the approval of Use Unit 14 uses at this location, and if the proposed use could operate under this classification.

Mr. Howard stated that his client has applied for a license to operate a sexually oriented business, because he is not sure his operation could be classified under Use Unit 14.

Ms. White stated that it is her opinion that a use operating during regular business hours would be more compatible with the area. She pointed out that approval of the adult bookstore at this location would add to an existing problem created by the Caravan, and would be injurious to the neighborhood.

In regard to operating standards, Mr. Jackere advised Mr. Doverspike that regulating these standards would go beyond the authority of the Board.

Mr. Doverspike and Mr. Chappelle agreed that there are mixed uses in the area and, due to the structure of the neighborhood, the proposed business could be compatible with the area.

Case No. 16076 (continued)

Mr. Bolzle stated that he is concerned with a business of this type being located in an area where there is a high concentration of young people; however, the proposed operation meets all requirements except for zoning.

There was Board discussion concerning hours of operation for the business.

Board Action:

Ms. White's motion for denial of the application failed for lack of a second.

On **MOTION** of **DOVERSPIKE**, the Board voted 4-1-0 (Bolzle, Chappelle, Doverspike, T. White, "aye"; S. White, "nay"; no "abstentions"; none "absent") to **APPROVE** a Special exception to permit Use Unit 14 (shopping goods and services) in an IL zoned district - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICT** - Use Unit 14, or in the alternative, a Special exception to permit a sexually oriented business in an Industrial District - **SECTION 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES** - Use Unit 14; subject to days and hours of operation being Monday through Thursday, 10:00 a.m. to 10:00 p.m., Friday and Saturday, 10:00 a.m. to midnight and Sunday, 1:00 p.m. to 10:00 p.m.; subject to the business prohibiting, and strictly enforcing, admittance of all individuals under 18 years of age; and subject to all movies displayed, rented or sold must be of a character acceptable for general distribution over public air waves; subject to no form of entertainment, of any nature, being permitted on the site; and subject to all products for sale, display or rental within the operation will not involve children, or depict acts of violence against women; finding that the operation of the bookstore at this location, per conditions, will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

From a Point of Beginning 250' west of the SE/c of the SE/4, then north 250', west 100', south 250', east 100' to the Point of Beginning less south 50' for street, Section 23, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16101

Action Requested:

Variance of the required side yard from 5' to 4'; variance of the lot width from 60' to 43'6"; variance of lot area from 6,900 sf to 5,089 sf; variance of land area; and a variance of livability space from 4,000 sf to 2,347 sf to permit a lot split - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located east of the NW/c of Xanthus and 14th Place.

Comments and Questions:

Mr. Jones informed that the applicant, **Honey Karr**, has requested by letter (Exhibit C-1) that Case No. 16101 be withdrawn.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **WITHDRAW** Case No. 16101, as requested.

Case No. 16105

Action Requested:

Variance of the aggregate display surface area of 3 sq ft per lineal foot of building wall to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs** - Use Unit 12, located NW/c South 164th East Avenue and East Admiral Place.

Comments and Questions:

Mr. Gardner asked if the backlit awnings are a part of the building structure, or if the wall height will be increased by the sign.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, Tulsa, Oklahoma, was represented by Mr. Tucker, who stated that the portion of one sign that is above the building will be backed with sheet metal. He explained that Arby's signs throughout the City are being changed, and one of the signs will extend 2'3" above the building, with the total copy area of each sign being approximately 80 sq ft. He informed that the signs will comply with the lighting standards proposed to the City Council.

Comments and Questions:

In response to Mr. Doverspike, Mr. Tucker stated that the signs that are in place are in bad repair, and the Arby's Corporation is attempting to upgrade signage.

Case No. 16105 (continued)

Mr. Bolzle inquired as to the amount of signage requested, and Mr. Tucker stated that he is requesting a variance from the required 420 sq ft to 620 sq ft.

Mr. Doverspike pointed out that on September 24, 1991, the Board minutes reflect that Councilor Polishuk reported that amendments regarding lighted awnings will be adopted and all hearings on the issue will be completed by December 1, 1991. He noted that this statement was made approximately one year ago, and it was determined at that time that all future applications of this nature would not be favorably considered until the amendments were adopted. Mr. Doverspike stated that, while he does not disagree with the request, in his opinion, the Board does not have the authority to grant the variance, and that the Board should **not** act on applications of this nature until the City Council has passed the technical amendments to the sign ordinance.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-2-0 (Bolzle, Chappelle, , T. White, "aye"; Doverspike, S. White, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the aggregate display surface area from 420 sq ft to 620 sq ft. to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs - Use Unit 12**; subject to the lettering being equal to or less than 80 sq ft, and that lighting for the awning be no greater than 25 footcandles measured at 2'; finding that similar signs have previously been approved by the Board, and that the sign in question will comply with the proposed ordinance change currently being reviewed by the City Council; on the following described property:

Beg. 501.5' E and 40' N SW/c of Lot 4, thence N 313.89' SE 162.85' curve length 122' E, 85.5' E to West R/W of 164th E. Ave. thence S 242.50' to N R/W Admiral Pl. thence W 558.01' to POB, less S 10' for street, Section 2, T-19-N, R-14-E; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16106

Action Requested:

Variance of the aggregate display surface area from 486 sq ft to 858 sq ft to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs** - Use Unit 12, located 1443 South Memorial Drive.

Comments and Questions:

Mr. Gardner asked if the backlit awnings are a part of the building structure, or if the wall height will be increased by the sign.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, Tulsa, Oklahoma, was represented by Mr. Tucker, who stated that the portion of one sign that is above the building will be backed with sheet metal. He explained that Arby's signs throughout the City are being changed, and one of the signs will extend 2'3" above the building, with the total copy area of each sign being approximately 80 sq ft. He informed that the signs will comply with the lighting standards (maximum 25 footcandles) proposed to the City Council.

Comments and Questions:

In response to Mr. Doverspike, Mr. Tucker stated that the existing signs are in bad repair, and the Arby's Corporation is attempting to upgrade all signage.

Mr. Doverspike pointed out that on September 24, 1991, the Board minutes reflect that Councilor Polishuk reported that amendments regarding lighted awnings will be adopted and all hearings on the issue will be completed by December 1, 1991. He noted that this statement was made approximately one year ago, and it was determined at that time that all future applications of this nature would not be favorably considered until the amendments were adopted. Mr. Doverspike stated that, while he does not disagree with the request, in his opinion, the Board does not have the authority to grant the variance, and that the Board should **not** act on applications of this nature until the City Council has passed the technical amendments to the sign ordinance.

Protestants:

None.

Board Action:

Mr. Chappelle's motion for approval died for lack of a second.

Case No. 16106 (continued)

On **MOTION** of **CHAPPELLE**, the Board voted 3-2-0 (Bolzle, Chappelle, , T. White, "aye"; Doverspike, S. White, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the aggregate display surface area from 486 sq ft to 858 sq ft. to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs** - Use Unit 12; subject to the lettering being equal to or less than 80 sq ft, and that lighting for the awning be no greater than 25 footcandles measured at 2'; finding that similar signs have previously been approved by the Board, and that the sign in question will comply with the proposed ordinance change currently being reviewed by the City Council; on the following described property:

West 150' of Lot 4, Block 10, Forrest Acre Addition,
City of Tulsa, Tulsa County, Oklahoma.

Case No. 16107

Action Requested:

Variance of the aggregate display surface area from 400 sq ft to 1712 sq ft to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs** - Use Unit 12, located 7201 South Memorial Drive.

Comments and Questions:

Mr. Gardner asked if the backlit awnings are a part of the building structure, or if the wall height will be increased by the sign.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, Tulsa, Oklahoma, was represented by Mr. Tucker, who stated that the portion of one sign that is above the building will be backed with sheet metal. He explained that Arby's signs throughout the City are being changed, and this sign will extend 2'3" above the building, with the total copy area of each sign being approximately 80 sq ft. He informed that the signs will comply with the lighting standards (25 footcandles measured at 2') proposed to the City Council.

Comments and Questions:

Mr. Bolzle asked why the sign is 8' tall at this location, and Mr. Tucker stated that the wall extends above the roof and they are attempting to cover the extension.

Mr. Bolzle stated that he is not supportive of the large sign.

Case No. 16107 (continued)

Mr. Tucker stated that the area merchants are in agreement with the proposed sign change.

Mr. Gardner asked if the wood extension above the building is covering an air conditioning unit, and Mr. Tucker answered in the affirmative.

Mr. Bolzle inquired as to the height of the awnings proposed for other Arby's locations, and Mr. Tucker replied that one is 5' and one is 4½'.

In response to Mr. Doverspike, Mr. Tucker stated that the signs that are in place are in bad repair, and the Arby's Corporation is attempting to upgrade signage.

Mr. Doverspike pointed out that on September 24, 1991, the Board minutes reflect that Councilor Polishuk reported that amendments regarding lighted awnings will be adopted and all hearings on the issue will be completed by December 1, 1991. He noted that this statement was made approximately one year ago, and it was determined at that time that all future applications of this nature would not be favorably considered until the amendments were adopted. Mr. Doverspike stated that, while he does not disagree with the request, in his opinion, the Board does not have the authority to grant the variance, and that the Board should **not** act on applications of this nature until the City Council has passed the technical amendments to the sign ordinance.

Protestants:

None.

Board Action:

Mr. Chappelle's motion for approval failed for lack of a second.

On **MOTION** of **DOVERSPIKE**, the Board voted 4-1-0 (Bolzle, Doverspike, S. White, T. White, "aye"; Chappelle, "nay"; no "abstentions"; none "absent") to **DENY** a **Variance** of the aggregate display surface area from 400 sq ft to 1712 sq ft to permit a backlit awning - **SECTION 1221.D.1. CS District Use Conditions for Business Signs** - Use Unit 12; finding the requested signage to be excessive; and finding that approval of the request would be detrimental to the area, and violate the spirit and intent of the Code; on the following described property:

Lot 2, Block 1, El Paseo Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16110

Action Requested:

Variance of the spacing requirement between residential treatment and transitional living centers to permit a 250 bed residential treatment center - **SECTION 1205.C.4 - Use Conditions** - Use Unit 5.

Special exception to allow Use Unit 2 to permit 12 and 12 Transitional House, Inc. - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2.

Comments and Questions:

Mr. Jones stated that the applicant has requested by letter (Exhibit G-1) that Case No. 16110 be continued to September 8, 1992. He noted that Board of Adjustment Policies state that a timely request for a continuance must be received by noon on the Thursday before the meeting, and the applicant's request was received Thursday, August 20th, at 3:19 p.m.

Interested Parties:

David James stated that he is the attorney for several protestants, and is ready to proceed with the hearing. He pointed out that his previous request was for a continuance to allow sufficient time to prepare the presentation, and Mr. Moody rejected the request and insisted that the case be heard today.

Presentation:

Mr. Moody stated that Mr. James requested that the application be continued for one month, and he agreed to a two-week continuance. Mr. Moody stated that he met with Mr. James, and other interested parties, one week ago, and he informed them at that meeting that a continuance would be requested at this time. He explained that the purpose for the request is to allow sufficient time for further discussion with property owners in the area.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16110 to September 8, 1992.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16119

Action Requested:

Minor Special Exception to permit a recreational vehicle to be parked within the front yard - **Section 402.B.7.a.5.a. Parking or Storage of Recreational Vehicles** - Use Unit 6, located 5236 South Zunis Avenue.

Presentation:

The applicant, **Alan Forman**, 5236 South Zunis, Tulsa, Oklahoma, requested permission to store a sailboat in his front yard. Mr. Forman explained that the boat was a gift and will be removed from the yard when restoration is completed. He submitted a plot plan (Exhibit H-3) and pointed out that his back yard is not accessible because of the location of an air conditioning unit and numerous large trees.

Comments and Questions:

Ms. White inquired as to the amount of time needed for the restoration process, and Mr. Forman stated that it will probably be May of next year before the boat is finished.

In response to Mr. Doverspike, the applicant stated that the boat has been in his front yard approximately five months, and there are no other recreational vehicles on the property.

Protestants:

Mr. Bolzle informed that six protest letters (Exhibit H-1) have been received by the Board.

Bill Cutsinger, 2117 East 52nd Place, Tulsa, Oklahoma, stated that he lives around the corner from the subject property, and the boat has been in Mr. Forman's yard for approximately one year. He stated that the applicant was issued a citation in March of this year, and Code Enforcement stated that numerous complaints have been received concerning the boat. Mr. Cutsinger stated that he is reflecting the views of several elderly residents in the area.

Leland Nance, 5418 South Zunis Place, Tulsa, Oklahoma, stated that the boat is parked in the front yard and the applicant's vehicle is parked in front of the boat. He stated that he is opposed to the application.

Case No 16119 (continued)

Applicant's Rebuttal:

Mr. Forman stated that he parked his car on the street in front of the boat during the time his home was being renovated. He pointed out that the boat is only on the property temporarily, and the asphalt and the boat will be removed after the restoration process has been completed.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Minor Special Exception** to permit a sailboat and trailer to be parked within the front yard - **Section 402.B.7.a.5.a. Parking or Storage of Recreational Vehicles - Use Unit 6;** finding that boat storage and restoration is not appropriate in the front yard of the residential dwelling; on the following described property:

Lot 1, Block 4, Rondo Valley 4 Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16115

Action Requested:

Variance of the all-weather surface requirement for off-street parking - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 25, located NE/c of East Pine and North Yale.

Presentation:

The applicant, **William Jones**, 3800 First National Tower, Tulsa, Oklahoma, stated that he is appearing on behalf of his clients, who lease the property in question to Bama Pie Ltd. and Bama Pie Transportation Company. He informed that the 53-acre tract was previously a landfill for the City of Tulsa, and was later leased for the current use as a transportation center. Mr. Jones stated that approximately 15 tractors are parked on the property. He noted that an engineer study revealed that the water table is within 2' of the surface, and a gravel covering is in place. Mr. Jones stated that the complaint to Code Enforcement stemmed from the fact that the big trucks leaving the parking lot deposited gravel out on Pine Street. He explained that gravel is continually added to the parking area, and the engineer report concluded that ten years of packing will be required before a hard surface covering can be installed. Mr. Jones asked the Board to permit parking on a gravel surface at this location. A copy of the violation notice (Exhibit J-1) and photographs (Exhibit J-2) were submitted.

Case No. 16115 (continued)

Comments and Questions:

Mr. Doverspike inquired as to the portion of the tract that will be utilized for parking, and the applicant submitted a location map (Exhibit J-3) depicting the parking area.

Protestants:

None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the all-weather surface requirement for off-street parking for 10 years only - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 25; per the revised plan and notations (location map) submitted; subject to the existing concrete approaches on Pine being extended approximately 100'; finding that the use, per conditions, will be compatible with the area and in harmony with the Code; on the following described property:

All that part of the S/2 of the SW/4, lying South of the St. Louis & San Francisco Railroad Company Main Line Right-of-Way and lying West of the Howard Branch Right-of-Way, a Branch of the St. Louis & San Francisco Railroad Company, in Section 27, T-20-N, R-13-E of the Indian Base and Meridian in Tulsa County, Oklahoma, particularly described as follows: Beginning at a point 50' East and 50' North of the Southwest corner of said Section 27; thence N 0°01'07" E parallel to and 50' E of the West boundary of said Section 27, a distance of 870.44' to a point in the Southerly right-of-way line of the main track, Cherokee sub-division of the St. Louis & San Francisco Railroad Company as now located and constructed; thence N 84°34'36" E along said Southerly right-of-way line of said main tract of the St. Louis & San Francisco Railroad Company Right-of-Way a distance of 2,184.71'; thence S 5°25'24" E along said Southerly right-of-way line of said main track of the St. Louis & San Francisco Railroad Company Right-of-Way a distance of 50.00'; thence S 35°37'27" E a distance of 575.49' (530.00' per Deed) to the intersection with the Westerly right-of-way line of the Howard Branch of the St. Louis & San Francisco Railroad Right-of-Way; thence S 9°39'07" W 0.00'; thence to the left along a curve of radius 1,627.21' along said Westerly right-of-way line of the Howard Branch Right-of-Way a distance of 361.06'; thence S 3°03'41"E along the Westerly right-of-way line of said Howard Branch a distance

Case No. 16115 (continued)

of 199.93' to a point on the North right-of-way of Pine Street; thence due West along the North right-of-way of Pine Street being 50' North and parallel to the South line of said Section 27, a distance of 2,505.11' to the Point of Beginning; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16116

Action Requested:

Variance of the maximum height for a fence in a required front yard from 4' to 6' - **SECTION 210.B. Permitted**
Obstructions in Required Yards - Use Unit 6, located 3513 South Richmond Avenue.

Presentation:

The applicant, **Charles Underwood**, 3513 South Richmond Avenue, Tulsa, Oklahoma, submitted photographs (Exhibit K-1) and stated that he has lived at the current location for approximately 13 years. He informed that the fence in question is located 20'2" from the curb, and does not pose a safety hazard and is not an eyesore. Mr. Underwood stated that the fence was installed because of the noise created during the night by the abutting property owners, and to screen the debris that has accumulated on the lot.

Comments and Questions:

Mr. Bolzle inquired as to the distance from the front of the house to the end of the fence, and Mr. Underwood replied that it extends approximately 12' into the front yard.

Protestants:

June Walker, 3519 South Richmond, Tulsa, Oklahoma, submitted photographs (Exhibit K-2), and stated that she is the abutting property owner referred to by the applicant. Ms. Walker stated that she is only opposed to the portion of the fence that extends into the front yard. She pointed out that the fence is not in harmony with the character of the neighborhood, and has a negative impact on the value of her property.

Comments and Questions:

Mr. Gardner stated that the reason for limiting the fence height in a front yard is to prevent limitation of light and air, and obstruction of the neighbors view.

Case No. 16116 (continued)

Applicant's Rebuttal:

Mr. Underwood stated that the fence does not pose a safety problem for the neighborhood, and does not obstruct the abutting property owner's view when backing out of the driveway.

In regard to a hardship, Mr. Doverspike stated that he does not find anything unique to the property that would justify the 6' fence in the front yard.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Variance** of the maximum height for a fence in a required front yard from 4' to 6' - **SECTION 210.B. Permitted Obstructions in Required Yards** - Use Unit 6; finding that the applicant failed to present a hardship that would warrant granting the variance request; on the following described property:

Lot 3, Block 7, Walter Foster Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16117

Action Requested:

Special Exception to remove the screening requirements between an R District and a CS District where existing physical characteristics provide a visual separation - **SECTION 212.C. Modification of the Screening Wall or Fence Requirements** - Use Unit 13, located 903 North Yale.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma, stated that he is representing the Git-N-Go Corporation, and explained that the property to the north of the store is vacant, to the east is an abandoned apartment building and to the south is a 10-acre park, all of which have a residential zoning classification. He requested that the screening requirement to the north be delayed until there is some development of a residential nature and the screening fence required on the east boundary be deferred until the building is occupied or renovated for residential purposes. Mr. Norman pointed out that the main park facilities are far removed from the store, and a letter (Exhibit L-2) from the park director states that the Park Board does not object to a waiver of the screening fence along the park boundary. He informed that Git-N-Go has agreed to reconstruct the existing chain link fence along the park

Case No. 16117 (continued)

boundary, and an opening will be installed to provide park patrons access to the store. Photographs (Exhibit L-1) were submitted.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to remove the screening requirements between an R District and a CS District where existing physical characteristics provide a visual separation - **SECTION 212.C. Modification of the Screening Wall or Fence Requirements** - Use Unit 13; subject to the screening fence requirement along the north boundary being waived until residential development occurs on the abutting property; subject to screening being deferred along the east property line until such time as the residential building is occupied; and subject to the existing chain link fence on the south boundary being replaced and maintained; finding that abutting properties are not currently being utilized for residential purposes, and approval of the application will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

A tract of land located in the West 130.5' of Lot 1, Block 1, Yale Manor Addition, an Addition to the City of Tulsa, Tulsa County, Oklahoma according to the official plat thereof, more particularly described as follows: Beginning at the Southwest corner of said Lot 1, Block 1, thence Northerly along the West line of said Lot 1 a distance of 22'; thence Easterly on a line parallel to the South line of said Lot 1 a distance of 114.2', thence Northerly on a line parallel to the West line of said Lot 1 a distance of 156.9', thence Westerly along a line parallel to the North line of said Lot 1 a distance of 113.5', thence Northerly along the West line of said Lot 1 to the Northwest corner of said Lot 1, thence Easterly along the North line of Lot 1 a distance of 130.5', thence Southerly on a line parallel to the West line of said Lot 1 a distance of 200' to a point on the South line of said Lot 1, thence Westerly along the South line of said Lot 1 a distance of 130.5' to the point of beginning; City of Tulsa, Tulsa County, Oklahoma.

Case No. 16118

Action Requested:

Variance of the required setback from an R District from 25' to 10' - **SECTION 404.F.4. Special Exception Uses In Residential Districts, Requirements** - Use Unit 5, located 1727 South 75th East Avenue.

Presentation:

The applicant, **Scott Griffith**, 4024 East 23rd Street, Tulsa, Oklahoma, was represented by **David Bloom**, who submitted a plot plan (Exhibit M-1) for the proposed project. He explained that the existing building was built in the form of an "H", and the proposed construction will fill in the vacant space between the "H" to the rear of the building. Mr. Bloom pointed out that the new portion will not extend further into the required setback than the existing building.

Protestants:

None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from an R District from 25' to 10' - **SECTION 404.F.4. Special Exception Uses In Residential Districts, Requirements** - Use Unit 5; per plan submitted; finding that the proposed addition will fill in a vacant space between two existing wings, and will not extend further into the required setback than the existing building wall; finding that approval of the request will not be detrimental to the area, or violate the spirit, purpose or intent of the Code; on the following described property:

Lots 1, 5, and 11, Block 5, Moeller Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16120

Action Requested:

Variance to allow two dwelling units per one lot of record during construction of a new dwelling - **Section 207. ONE SINGLE-FAMILY DWELLING UNIT PER ONE LOT OF RECORD** - Use Unit 6, located 1528 West 44th Street.

Presentation:

The applicant, **Jim Rodgers**, 8311 South 56th West Avenue, Tulsa, Oklahoma, requested permission to live in an existing house on the subject property during the construction of a dwelling. He informed that the old house will be removed within 60 days after the construction is completed.

Comments and Questions:

Mr. Bolzle inquired as to the length of time two dwelling units will be on the property, and Mr. Rodgers stated that the old structure will be removed in January or February of 1993.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Variance to allow two dwelling units per one lot of record during construction of a new dwelling - **Section 207. ONE SINGLE-FAMILY DWELLING UNIT PER ONE LOT OF RECORD** - Use Unit 6; subject to one dwelling being removed from the property no later than April 1, 1993; finding that the temporary approval will not be detrimental to the neighborhood; on the following described property:

Lot 2, Block 2, Rosehill Ranch, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16121

Action Requested:

Variance of the required number of off-street parking spaces from 18 to 10 - **SECTION 1211.D. Off-Street Parking and Loading Requirements** - Use Unit 11, located 1430 South Utica.

Presentation:

The applicant, **Terry Brady**, 3756 West 43rd Street North, Tulsa, Oklahoma, informed that the existing medical clinic schedules one patient per hour and pointed out that the 10 provided spaces are adequate for the clinic.

Comments and Questions:

Mr. Bolzle asked the applicant if the building in question is the MRI facility, and he answered in the affirmative.

In reply to Mr. Bolzle, Mr. Brady stated that the use is not changing. He informed that the medical clinic has been operating at the current location for approximately six years.

Ms. Hubbard informed that a real estate office occupied the building prior to the clinic. In response to Ms. Hubbard, the applicant stated that a screening fence is in place on the west property line.

Mr. Gardner inquired as to the size of the building, and Mr. Brady stated that the clinic contains approximately 4000 sq ft of floor space.

In response to Mr. Bolzle, the applicant stated that approximately one-third of the building is used for medical equipment.

Protestants:

None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required number of off-street parking spaces from 18 to 10 - **SECTION 1211.D. Off-Street Parking and Loading Requirements** - Use Unit 11; subject to the building being limited to the current use, MRI testing equipment, with no more than one technician working at any time; finding that there are numerous medical facilities in the area; and finding that the clinic has been at the current location for approximately six years and has proved to be compatible with the area; on the following described property:

Case No. 16121 (continued)

Lot 7 and the north 25' of Lot 8, and the east 10' of vacated alley adjacent on the west, Block 4, Lake View Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16122

Action Requested:

Variance of the required setback from the centerline of South Gary Place from 50' to 25' - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13, located southwest corner of East Pine and North Harvard.

Presentation:

The applicant, **O'Reilly Real Estate Co.**, PO Box 1897, Springfield, Missouri, was represented by **Randy Smith**, 43 Skyline Drive, Kimberling City, Missouri. Mr. Smith submitted photographs (Exhibit O-1), and informed that the property in question is bounded on three sides by public streets, which limits development without a variance of the setback requirement. He explained that the old buildings will be removed and a new parts store will be constructed, with a solid wall extending along South Gary Place.

Comments and Questions:

Mr. Gardner asked if the west wall will have windows or doors, and Mr. Smith replied that the west wall along the residential area will be solid, with no openings. Mr. Gardner pointed out that moving the building to the west side of the property will cause all vehicular activity to be on Harvard Avenue, and away from the residences.

In reply to Mr. Bolzle, Mr. Smith informed that the west wall will be approximately 14' high.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of South Gary Place from 50' to 25' - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 13; per plot plan submitted; subject to a screening fence being installed on the west property line from the end of the building to the north (50' from the centerline of Pine) and south, and that there be no access from the subject property to Oklahoma Street or Gary Place;

Case No. 16122 (continued)

subject to all outside lighting being shielded and directed away from the residential neighborhood to the west; finding a hardship imposed on the applicant by setback requirements from three public streets; on the following described property:

Lots 1, 2, 3, 4 and 5, Block 1, Willi Mae, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16123

Action Requested:

Variance of the required frontage on a public street from 30' to 15' - **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6, located 5910 East 116th Street.

Presentation:

The applicant, **Cozort Properties**, 4641 South Braden, Suite 101, Tulsa, Oklahoma, was represented by **Howard Tate**, 4641 South Braden, who submitted a letter and copy of the access easement (Exhibit P-1). Mr. Tate requested a variance of the required street frontage from 30' to 15', and pointed out that a 15' driveway is a portion of the deeded property and an additional 15' is a perpetual easement. A plat (Exhibit P-2) was submitted

Comments and Questions:

Mr. Jones asked the applicant if this application is a part of a current lot split, and Mr. Tate stated that the property was split in 1977. Mr. Jones pointed out that the size of the lots will not meet the current zoning requirements (5 acres or less required lot split approval from TMAPC).

Mr. Gardner asked if the deeds to the three separate properties were filed of record, and Mr. Tate answered in the affirmative.

Ms. Hubbard stated that she requested a record search and found no evidence of a lot split.

Mr. Bolzle asked if each lot has the same deeded access, and Mr. Tate answered in the affirmative.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required frontage on a public street from 30' to 15' - **SECTION 206. STREET FRONTAGE REQUIRED** - Use

Case No. 16123 (continued)

Unit 6; per plat submitted; finding that three tracts were created several years ago without the need for a lot split, and the lots have 30' of frontage by a 15' perpetual easement and 15' of deeded land; on the following described property:

Beginning at a point which is N 89°43'44" W, 1668.05' from the NE corner of said SE/4; thence S 0°16'51" W, 875.47'; thence N 89°34'22" W, 284.75'; thence N 0°10'26 " E, 404.90' thence S 89°43'44" E, 270.33'; thence N 0°16'51" E, 470.00'; thence S 89°43'44" E, 15.00' to the point of beginning, containing 2.79 acres more or less; City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 16004

Discussion of pending litigation.

There being no further business, the meeting was adjourned at 4:40 p.m.

Date Approved September 22, 1992


Chairman

