

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 696
Tuesday, January 23, 1996, 1 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Abbott Bolzle Turnbo, Chair White	Doverspike	Gardner Beach Moore	Jackere, Legal Department Parnell, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, January 19, 1996, at 3:45 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** the minutes of January 9, 1996 (No. 695)

UNFINISHED BUSINESS

Case No. 17274

Action Requested:

Variance of the required side yard from 10' to 5' to permit an addition to an existing dwelling - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1715 East 30th Place.

Presentation:

The applicant, **Jack Arnold**, 7318 South Yale Avenue, requested by letter (Exhibit A-1) that Case No. 17274 be continued to February 13, 1996.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **CONTINUE** Case No. 17274 to February 13, 1996.

Case No. 17276

Action Requested:

Variance of a nonconforming use to allow a liquor store in an RS-3 zoned district - **SECTION 1402.F. NONCONFORMING USE OF BUILDINGS, OR BUILDINGS AND LAND IN COMBINATION** - Use Unit 13, located 2945 East Pine Street.

In the alternative, any type of retail sales, tax service or bookkeeping service.

Presentation:

The applicant, **Alta Spruzzola**, 1520 North College, was represented by **Bill Harrington**, who requested that a nonconforming use be permitted to continue at the above stated location. He explained that his client purchased the subject property in 1950 and constructed a building in 1952 to be used for commercial purposes. A petition (Exhibit B-1) of support for that use was submitted. He informed that his client has leased the building to an individual who is proposing to operate a liquor store; however, a permit for this use was denied by the City. Mr. Harrington stated that the City had no record of the property ever being used for commercial purposes. He informed that his client began operation of a convenience store at this location in 1952 and various commercial uses have continued since that time.

Ms. Turnbo asked when the convenience store ceased operation, and Mr. Harrington informed that the store closed in 1964 and an auto supply business began operating in the building. He noted that the last business to occupy the building was a tax and computer sales and service business.

Alta Spruzzola informed that commercial use of the property has continued since 1952 and the building has never been unoccupied. A photograph (Exhibit B-2) was submitted.

Protestants:

Lisa Huckins, 1462 North Evanston Place, informed that her residence is across the street from the subject property and noted that school children cross the street directly in front of the proposed liquor store. She pointed out that there are several liquor stores in the area and customers seem to congregate outside to wait for the store to open. Ms. Huckins noted that there are numerous single family residences in the area and the proposed use would not be compatible with the neighborhood. A petition of opposition (Exhibit B-3) and photographs (Exhibit B-4) were submitted.

Bill Mayo, 1452 North College, stated that he is the school guard assigned to assist children at this corner, and pointed out that this type of business would pose a danger for the children.

Case No. 17276 (continued)

Warren Nelson, 3001 East Pine, informed that he is opposed to a liquor store in the residentially zoned area. He pointed out that there is a school bus stop nearby and the children would be waiting very near the liquor store.

Mr. Bolzle asked Mr. Nelson if he is opposed to any type of commercial activity at this location, and he replied that he is opposed to a business in the residential district.

Candy Washington, 1515 North Florence, advised that she lives in the area and is a member of the church located one block behind the subject property. She pointed out that the church sign is directly behind the proposed liquor store, and the playground for the day care center is also located very near the building.

Mr. Jackere advised that State law prohibits the sale of liquor within 300' of a church. He informed that, although the church building is approximately one block away from the building in question, the church owns the abutting property directly to the north.

In reply to Ms. Turnbo, Mr. Jackere stated that it has not been established that church use has been approved on the church owned property to the south of the church building..

Ms. Washington requested that the Board consider the children in the neighborhood that walk to the nearby schools, as well as the residents that live in the area.

In reply to Mr. Bolzle, Mr. Gardner noted that the convenience store that initially began operation at this location was classified under Use Unit 13 and the use was then changed to other use units.

Mr. Jackere advised that any change from a Use Unit 13 use to another use unit would require Board of Adjustment approval. He informed that the question before the Board at this time is whether or not the use is legally nonconforming (Use Unit 13 permitted by right), and, if not, would approval of a liquor store at this location result in an increase of incompatibility with the use of the proximate property. He noted that it is the burden of the applicant to prove the use to be nonconforming.

Howard Young informed that he owns property at the corner of Florence and Pine, and asked the Board to maintain the residential character of the neighborhood by denying the application. He pointed out that liquor stores are the target of many robberies.

Applicant's Rebuttal:

Mr. Harrington stated that his client is requesting that a retail use be permitted on the subject property. He pointed out that there is a shopping center, as well as numerous commercial uses in the area. He questioned if use units were a part of the Code when the property was annexed in 1963.

Case No. 17276 (continued)

Ms. Turnbo questioned if it would be possible to change from a Use Unit 13 to another use unit and then back to Use Unit 13 again, and Mr. Jackere stated that a court might permit a change from a greater intense use to a less intense use, but would probably not permit the reverse (less intense to greater intensity).

Mr. Bolzle noted that it has been approximately 30 years since the property has been used for Use Unit 13 purposes, and it appears that Use Unit 13 uses would be more damaging to the neighborhood than those in Use Units 11 (office) or 14 (retail commercial).

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** a **Variance** of a nonconforming use to allow a liquor store in an RS-3 zoned district - **SECTION 1402.F. NONCONFORMING USE OF BUILDINGS, OR BUILDINGS AND LAND IN COMBINATION** - Use Unit 13; and to **APPROVE** a **Special Exception** to permit Use Unit 11 and Use Unit 14 uses; subject to the use being contained wholly within the existing building; finding that various commercial businesses have been operated on the subject property during the past 30 years; finding the proposed liquor store and other Use Unit 13 uses to be too intense for the area; and finding Use Unit 11 and 14 uses to be less intense and more compatible with the residential neighborhood; on the following described property:

SW/4, SE/4, SE/4, SW/4, SE/4, Section 29, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17280

Action Requested:

Appeal from the decision of an administrative official that the gravel yard as shown on the site plan submitted must be paved with an all-weather surface - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, or,

In the alternative, a variance of the required all-weather surface for the gravel storage yard - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 23, located north of I-244, west of North 129th East Avenue.

Presentation:

The applicant, **Leon Ragsdale**, 324 South Main, Suite 200, was not present.

Case No. 17280 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** without prejudice Case No. 17280; finding that the applicant failed to appear at two consecutive meetings.

Case No. 17284

Action Requested:

Variance of the required all-weather surface for a parking/display area - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17, located west of the northwest corner East Admiral Place and South 193rd East Avenue.

Presentation:

The applicant, **Jim Kuykendall**, 10905 East 75th Place, submitted a plot plan Exhibit C-2) and requested that a variance be approved to permit parking and display of heavy equipment on a gravel surface behind a fence. Mr. Kuykendall submitted photographs (Exhibit C-1) of gravel display areas of other heavy equipment dealerships in the City. He informed that the street access points will be hard surfaced, as will the customer parking area.

Protestants:

None.

Board Action:

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Variance** of the required all-weather surface for a parking/display area - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 17; per plan submitted; subject to the gravel portion of the lot being confined to the area behind the fence, with the remainder of the lot being hard surface (yellow designation on plot plan); finding that hard surface material could not withstand the weight of the heavy equipment; and finding that the slow moving machinery would not cause dusting in the area; on the following described property:

Lot 1, Block 1, Kuykendall Industrial Park, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17281

Action Requested:

Special exception to permit a jail on a tract of land zoned RM-2, CBD, IL and IM - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL - SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 2, located in an area bounded by the Inner Dispersal Loop (IDL) to the north and west; following a line south on Denver Avenue from the IDL to Brady Street; west on Brady Street to Frisco Avenue; south on Frisco Avenue to Archer Street; west on Archer Street to the IDL.

Presentation:

The applicant, **Commissioner John Selph**, 500 South Denver, Room 320, was represented by **Commissioner Robert Dick**, who informed that a new jail is proposed at the above stated location. He stated that the neighborhood is supportive of the application, and noted that a great deal of effort is being expended to ensure adequate buffering and to design the facility in such a way as to enhance the neighborhood.

Interested Parties:

Gordon McCune, a member of the Advisory Board of the Salvation Army, stated that the Salvation Army is located nearby and provides a number of social services for transients. He informed that they are proposing an expansion project on their property, and are supportive of the jail location if adequate on-site parking is provided.

Patrick Callahan, 208 North Elwood, stated that he has seen the neighborhood deteriorate and welcomes the construction of the jail.

Andrew Smalley, 512 West Cameron, stated that he is supportive of the proposed development.

A representative of **Chromium Plating Company**, 400 Block North Cheyenne, informed that the company is supportive of the application, but he questioned the plan for the railroad bridge connecting the subject property with their property.

Jim Norton, president of DTU and chairman of Planning District 1, stated that he is supportive of the application; however, he asked that appropriate buffering be provided to protect the property owners to the west.

Case No. 17281 (continued)

Protestants:

Joseph Bash, 528 West Brady, submitted photographs (Exhibit D-2) and informed that this is the second time his property has been taken. Mr. Bash stated that he is opposed to the application.

Applicant's Rebuttal:

Commissioner Dick informed that 84 parcels will be involved in the development and relocation costs will be paid to homeowners. He stated that work on the project is to begin on November 12, 1996, and parking will be designed to protect the neighborhood.

Mr. Gardner advised that the existing jogging trail uses the railroad bridge to cross Denver Avenue and it will remain in place.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Special Exception** to permit a jail on a tract of land zoned RM-2, CBD, IL and IM - - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL - SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS - Use Unit 2;** subject to appropriate buffering to the west; subject to approval of final site plan depicting the location of buildings, perimeter security treatment, circulation within and around the site and the planned system of transporting prisoners within the facility, as well as to and from the courthouse; and subject to drawings showing the appearance of the jail from various views, including from the expressways and neighboring businesses; finding the use to be appropriate for the area and in harmony with the spirit and intent of the Code; on the following described property:

Part of Blocks 11, 12, 13, 14 and 34, Tulsa Original Townsite which lies east of the Inner Dispersal Loop; all of Blocks 15, 32, 33 and 35, Tulsa Original Townsite; all of Block 9, Owen Addition Amended; Elwood Ave. north of Brady St. to the Inner Dispersal Loop; Frisco Ave. north of Archer St. to the Inner Dispersal Loop; Cameron St. west of Denver Ave. to the Inner Dispersal Loop; Brady St. west of Frisco Ave. to the Inner Dispersal Loop, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17283

Action Requested:

Variance of the Use Conditions for Outdoor Advertising Signs to permit a business sign to be located on a lot other than the lot containing the business - **SECTION 1221. BUSINESS SIGNS AND OUTDOOR ADVERTISING** - Use Unit 21, located 4720 East 51st Street.

Presentation:

The applicant, **Bruce Anderson**, 7520 East 55th Place, was represented by **Ross Clark**, 9380 South Union Avenue, who submitted photographs (Exhibit E-1) and a plot plan (Exhibit E-2). Mr. Clark explained that the sign in question, which has been at the current location for approximately 25 years, was damaged when it was moved to accommodate the widening of the street. He noted that the parking lot is shared with the Steak and Ale Restaurant and they are not opposed to the replacement.

Comments and Questions:

Mr. White asked if the existing sign poles will be used, and Mr. Clark answered in the affirmative.

In reply to Mr. White, Mr. Clark stated that the proposed sign will be shorter than the Steak and Ale sign.

Ms. Turnbo asked if the new sign will be in the same location as the old sign, and Mr. Clark informed that the sign will be placed on the existing poles, and only the sign face will be changed.

Mr. Bolzle inquired as to the overall height of the sign, and Mr. Clark informed that the sign will be 18' in height.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Variance** of the Use Conditions for Outdoor Advertising Signs to permit a business sign to be located on a lot other than the lot containing the business - **SECTION 1221. BUSINESS SIGNS AND OUTDOOR ADVERTISING** - Use Unit 21; per plan submitted; subject to the sign height being a maximum of 18'; finding that the sign structure has been at the current location for many years, and the sign will be placed on the existing poles; and finding that approval of the variance will not be detrimental to the area; on the following described property:

South 100', east 338', west 363', N/2, NE/4, NE/4, NE/4, Section 33, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17285

Action Requested:

Special Exception to permit a community center in an RM-1 and CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2 - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located southwest corner East Pine Street and North Peoria Avenue.

Presentation:

The applicant, **YMCA of Greater Tulsa**, 515 South Denver, was represented by **Joe Robinson**, who requested that an active older adult center be permitted on abutting property to the east of the existing YMCA. He explained that the program is currently located in the existing building and will be relocated to the newly acquired structure (2000 sq ft) next door.

Comments and Questions:

Mr. White asked if there will be additional construction on the lot, and Mr. Robinson replied that the existing building will be remodeled, with no new construction proposed.

Protestants: None.

Board Action:

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Special Exception** to permit a community center in an RM-1 and CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2 - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; finding that the YMCA is operating on property abutting the subject tract; and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lots 22, 23 and 24, Block 1, Sunny Brook Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17286

Action Requested:

Special Exception to permit a manufactured home in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; and a variance to allow the manufactured home permanently - **SECTIONS 404.E.1 and 404.E.3. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 3740 South 32nd West Avenue.

Case No. 17286 (continued)

Presentation:

The applicant, **Warren Morris**, 1918 East 51st Street, informed that the mobile home has been at the current location for 20 years and the owner of the subject property is now living in a nursing home. He requested permission to construct an addition to the mobile home and upgrade its appearance to that of a conventional dwelling. Photographs (Exhibit G-1) were submitted.

Protestants:

David Lower, 3821 South 31st West Avenue, stated that he is opposed to the application. A petition of opposition (Exhibit G-2) was submitted.

Millie York, 4334 East 100th Street, informed that her parents own the property to the south of the mobile home. She explained that the neighborhood did not oppose the installation of the mobile home for the elderly property owner; however, she is currently residing in a nursing home and the property is being rented. Ms. York requested that the application be denied. A letter of protest (Exhibit G-3) was submitted.

Ms. Turnbo advised that **Kathryn Spears**, co-chair for District 8, called to advise that the neighborhood is not supportive of the application.

Applicant's Rebuttal:

Mr. Morris requested that the use be approved and noted that he can return with building plans for a dwelling that will be compatible with the neighborhood.

Comments and Questions:

Ms. Turnbo asked if the mobile home had temporary approval of one year, and Mr. Morris replied that the mobile home was permitted for one year at two different Board of Adjustment meetings.

In reply to Mr. White, the applicant stated that the mobile home is not owner occupied at this time. He informed that the property will be sold if this application is approved.

Mr. White noted that there are no other mobile homes in the neighborhood.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** a **Special Exception** to permit a manufactured home in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; and a **variance** to allow the manufactured home permanently - **SECTION 404.E.1** and **404.E.3. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9; finding that the temporary approval for the elderly property owner expire several years ago; finding that there are no other mobile homes in the area; and

Case No. 17286 (continued)

finding that approval of the application would be injurious to the neighborhood and would violate the spirit and intent of the Code; on the following described property:

Lot 2, Block 22, Red Fork Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17287

Action Requested:

Special Exception to permit a chiropractic office in an RS-1 zoned district as a home occupation in both locations - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11, located 3230 East 31st Street and 3111 South Gary Court.

Presentation:

The applicant, **Gordon Skinner**, 3111 South Gary Court, requested permission to operate a chiropractic business in his home on Monday, Wednesday and Friday, 9:30 a.m. to 12:30 p.m. and 3 p.m. to 6 p.m. He informed that, due to health problems (Exhibit H-2), it is not possible to operate a full-time medical practice. Mr. Skinner advised that he is withdrawing the request for a business at 3230 East 31st Street. Photographs (Exhibit H-1) were submitted.

Protestants:

Ms. Turnbo advised that protest calls have been received from Mr. Montgomery and Mr. Howard (Exhibit H-5), residents of the area.

Comments and Questions:

Ms. Turnbo asked Mr. Skinner if he will have employees, and he replied that he will operate the business alone, with a maximum of 10 patients per day.

Mr. Jackere inquired as to the amount of space devoted to the chiropractic business, and Mr. Skinner advised that a total of 400 sq-ft of his home will be used for his business.

Mr. Jackere noted that Ms. Parnell has inspected the home and advised that 4 or 5 rooms are devoted to this use (Exhibit H-6), and Mr. Skinner stated that he uses two rooms and part of a wash room.

Protestants:

Marcel Binstock, 3121 South Gary Court, advised that his property and Mr. Skinner's home are in the same cul-de-sac. Mr. Binstock pointed out that, because of the narrow street, customers are forced to use his driveway to turn around when Mr. Skinner's driveway is in use. He voiced a concern that emergency vehicles would not have sufficient space to pass if cars are parked on the street. Mr. Binstock stated that the medical use is too intense for the residential neighborhood.

Case No. 17287 (continued)

Helen Frances Besly, 3202 East 31st Street, informed that numerous vehicles are parked at Mr. Skinner's home, and pointed out that the business brings unfamiliar people into the neighborhood. She stated that theft is already a problem in the area.

Herb Elias, Jr., 7719 South Erie Avenue, informed that his mother is in the process of divorcing Mr. Skinner (Exhibit H-3), and it has not been determined who will be awarded the house. He asked that the application be continued until the divorce is finalized and it is determined who will own the property.

Tom Montgomery, 3136 South Gary Avenue, asked the Board to deny the request and maintain the integrity of the residential neighborhood.

Ms. Wayland, 3139 South Florence Place, submitted a petition of opposition (Exhibit H-4) and stated that the number of vehicles parked near the residence makes it evident that a business is being operated at this location.

Ansel Owens, 3139 East 31st Street, asked that business operations not be permitted to encroach into the residential neighborhood.

John Howard, 3156 South Gary Place, stated that he is opposed to a business being operated in the residential area.

Additional Comments:

Ms. Turnbo informed that she site-checked the area, and verified the fact that the street is very narrow and it is necessary to use the neighbor's driveway to turn around.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** a **Special Exception** to permit a chiropractic office in an RS-1 zoned district as a home occupation (3111 South Gary Court) and to **WITHDRAW** a **Special Exception** to permit a chiropractic office in an RS-1 zoned district as a home occupation (3230 East 31st Street) - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11; finding that that approval of the request would be injurious to the neighborhood and violate the spirit, purpose and intent of the Code; on the following described property:

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

Case No. 17288

Action Requested:

Variance of the required setback from Delaware from 20' to 15' to permit a new garage - **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2807 East 35th Place.

Presentation:

The applicant, **Gregory Wallace**, 2807 East 35th Place, submitted a plot plan (Exhibit J-1) and informed that a new addition to an existing dwelling is proposed. He stated that the new construction will align with the existing building wall of the dwelling and will not encroach farther toward the street. Mr. Wallace noted that the land in this area was developed prior to current Zoning Code regulations and many structures encroach into the required setback. Photographs (Exhibit J-2) were submitted.

Comments and Questions:

In reply to Mr. Beach, Mr. White noted that a utility pole and guy wire would prevent repositioning the garage to permit entry from Delaware.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Variance** of the required setback from Delaware from 20' to 15' to permit a new garage - **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the new addition will align with the existing building wall; and finding that the addition was developed prior to current zoning regulations and numerous dwellings encroach into the required setbacks; and finding that approval of the request will not be detrimental to the neighborhood; on the following described property:

Lot 20, Block 8, Charlane Estates, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17289

Action Requested:

Special Exception to waive the screening requirement on the north and west sides of the property and the east 185' of the property; or in the alternative, a Special Exception to extend the time to provide the required screening - **SECTION 1228.E. JUNK AND SALVAGE YARDS, Screening Requirements**, Use Unit 28, located 1520 East Pine Street.

Case No. 17289 (continued)

Presentation:

The applicant, **Jimmy Beard**, 5601 South 257th East Avenue, informed that he purchased the subject property approximately five years ago and has been removing debris to improve the appearance of the area. He stated that his family has been in the salvage business for many years and, although he had the property zoned for salvage use, a salvage yard has not been in operation at this location during his ownership. Mr. Beard noted that, at the time of approval, a screening fence was required where the property abutted residential zoned areas and fencing was installed; however, the Code was then changed to require additional screening along the public streets. The applicant requested that he be permitted to comply with the previous Code requirements in regard to fencing.

Comments and Questions:

In reply to Mr. White, the applicant stated that he is requesting that the existing chain link fencing be permitted to remain along lot lines that do not abut residential properties. He informed that the screening of all residential properties will be completed in the near future.

Mr. Gardner advised that the Code has been amended to require solid screening along all public streets, with one year to comply with these requirements.

Protestants:

Dorothy DeWitty, 2415 North Wheeling, informed that numerous residents near the salvage yard have voiced a concern with the lack of aesthetic consideration. She stated that the applicant has done a great deal in cleaning up the property; however, most salvage operations along Pine Street have adequate fencing and this property owner should comply with Code requirements in that regard. She asked that the application be denied.

Councilor Darrell Gilbert advised that he is representing Council District 3, and stated that he also is concerned with the fact that Mr. Beard's property does not have adequate fencing. He requested that the application be denied.

Applicant's Rebuttal:

Mr. Beard noted that only one corner of the lot has been rented for business purposes. He pointed out that he is attempting to clean up the lot and has installed a great deal of fencing to protect the residential neighborhood. Mr. Beard asked that the existing fencing be permitted to remain.

Ms. Abbott asked if the property was purchased in approximately 1991, and Mr. Beard answered in the affirmative.

In reply to Mr. Bolzle, the applicant stated that he met the screening requirements imposed at the initial approval.

Case No. 17289 (continued)

Mr. Bolzle noted that, even though a business may not be in operation at this location, the property is being used for the storage of salvage.

Mr. Jackere advised that there is no question that the use at this location is a salvage yard, as defined in the Code.

In reply to Ms. Abbott, the applicant stated that he has spent thousands of dollars to clean up and screen the residential area, and asked the Board approve the request.

Mr. Bolzle stated that the applicant has had approximately four years to install appropriate screening for the use.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** a **Special Exception** to waive the screening requirement on the north and east sides of the property; and a **Special Exception** to extend the time to provide the required screening - **SECTION 1228.E. JUNK AND SALVAGE YARDS, Screening Requirements, Use Unit 28**; finding that the applicant has had adequate time to install required screening; and finding that approval of the requests would be injurious to the area; on the following described property:

Lots 1 and 2 and 9 - 16, Block 2, and all of Blocks 3 and 4, Magic City Addition,
City of Tulsa, Tulsa County, Oklahoma.

Case No. 17290

Action Requested:

Special Exception to amend a previously approved site plan - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 12, located southeast corner I-44 and East 41st Street.

Presentation:

The applicant, **Aguilar & Williams**, PO Box 101178, Ft. Worth, Texas, was represented by **Ted Sack**, 111 South Elgin, who submitted an amended site plan (Exhibit L-1) and stated that this project was approved approximately one year ago. He informed that the use is similar, with a new building arrangement and a new access point on the I-44 service road.

Comments and Questions:

In reply to Mr. White, Mr. Sack stated that the proposed access will be across a triangular piece of property to the north of the motel drive.

Case No. 17290 (continued)

Mr. Bolzle noted that the reduction of proposed restaurants results in a less intense use on the tract and a reduction of required parking spaces.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **APPROVE** a **Special Exception** to amend a previously approved site plan - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 12; per revised plan submitted; (except for the triangular shaped drive being negotiated on off-site property); finding the use to be less intense than that initially approved; and finding the use to be compatible with the area; on the following described property:

North 855' of Lots 4, 5 and 6, Tulsa View Addition Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17291

Action Requested:

Special Exception to permit mobile home sales in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located southeast corner Admiral Place and Mingo Road.

Presentation:

The applicant, **Douglas Gorman**, 11 Cedar Ridge Road, Broken Arrow, Oklahoma, requested that Case No. 17291 be withdrawn.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **WITHDRAW** Case No. 17291 as requested by the applicant.

Case No. 17292

Action Requested:

Variance of the required side yard setbacks in an RS-2 zoned district from 10' to 8'6" to permit an existing structure and from 5' to 1'8" to construct a carport and additions to an existing structure - **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1395 East 26th Street.

Case No. 17292 (continued)

Presentation:

The applicant, **Rodger Randle**, 1395 East 26th Street, was represented by **Allen Madewell**, who informed that his client has purchased a 5' strip of property to the west and that variance of the required side yard is no longer needed. He requested that a carport (Exhibit M-1) be permitted.

Comments and Questions:

Mr. Bolzle asked if the carport will be open on three sides, and Mr. Madewell answered in the affirmative.

Protestants:

None.

Board Action:

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **WITHDRAW** a **Variance** of the required side yard setbacks in an RS-2 zoned district from 10' to 8'6" and to **APPROVE** a **Variance** from 5' to 1'8" to construct a carport and additions to the west side of the existing structure - **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the applicant purchased a 5' strip of land to the west side and is no longer in need of a variance on the east boundary; finding a hardship demonstrated by the existing dwelling and the narrowness of the lot; and finding that the lots in the older area do not comply with current Zoning Code requirements; on the following described property:

Lot 32, Travis Heights Addition II, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17293

Action Requested:

Variance to permit a portion of the required off-street parking to be located on a lot other than the lot containing the principal use - **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING, GENERAL REQUIREMENTS** - Use Unit 12, located southwest corner 21st Street and Utica Avenue.

Presentation:

The applicant, **Tamara Wagman**, 320 South Boston, Suite 400, was represented by **Ted Fox**, who stated that he is representing the owner of the subject property. He submitted a plot plan and parking agreement from Helmerich and Payne (Exhibit N-1) and explained that a restaurant is proposed in the newly constructed building at the above stated location. He submitted a parking summary (Exhibit N-3) and advised that there are currently 175 parking spaces available to serve the tenants (2/3 office

Case No. 17293 (continued)

and 1/3 retail). Mr. Fox requested that 12 employee parking spaces be permitted off site on the top floor of the Helmerich & Payne parking structure, located 265' to the north. Mr. Fox noted that this is a mixed use project.

Comments and Questions:

Mr. Bolzle asked Mr. Fox to state a hardship for the variance request, and he replied that the Code states that mixed use commercial developments are permitted to have a blending of parking.

Protestants:

A letter of protest (Exhibit N-2) was received from **Thomas Jewell, Jr.**, 1557 East 22nd Street.

Mike Tolson, 1567 East 22nd Street, noted that the applicant has not presented a hardship for the variance request and pointed out that ~~he~~ he is requesting that approximately one-half of the required parking be permitted off site. He voiced a concern that restaurant employees will park in the neighborhood instead of walking approximately 265' to the north and up several flights of stairs to the upper level parking area.

Mark Allen, 2124 South St. Louis, noted that the additional traffic created by the proposed use will be hazardous to the residents of the neighborhood, and the parking provided for the restaurant is not practical. He pointed out that the entire development was placed on a lot that was too small and the neighborhood is being forced to bear the brunt of this action.

Robert Jones, 2217 South Troost, stated that it is not realistic to assume that employees will walk to the north and up several flights of stairs to park their vehicles when they can conveniently park in the neighborhood.

Joyce Saunders, 1572 East 22nd Street, voiced a concern with restaurant parking overflowing along the street, which will create a traffic hazard in the residential area.

Juneal Saunders, 1572 East 22nd Street, noted that parking is very tight in the area and additional need for parking would further impact the neighborhood.

Schaad Titus, 68 Woodward Boulevard, informed that he is representing F & M Bank, located to the north of the project in question. He stated that the use would increase pedestrian traffic in the area and cause those involved in the restaurant use to park on surrounding properties. He pointed out that a hardship has not been demonstrated.

Case No. 17293 (continued)

Barton Speegle, 2202 South Utica, stated that the restaurant will generate additional traffic in the neighborhood, and noted that F & M people currently park in the neighborhood to avoid parking on Utica Square property. He requested that the application be denied.

Mr. Boring, 2120 South St. Louis, stated that customers of the existing restaurant in the area already park along the residential streets, and requested that the neighborhood be protected from additional overflow of traffic from this type of use.

Applicant's Rebuttal:

Mr. Fox stated that the owner of Utica Plaza is attempting to provide a solution to a potential parking problem by providing off-site parking to comply with the Code. He explained that a restaurant was not contemplated when the project was planned; however, an individual has shown an interest in operating a restaurant and this request is to accommodate their needs in regard to parking.

Additional Comments:

Ms. Abbott asked if the office parking spaces will be available for restaurant parking in the evening hours, and Mr. Fox answered in the affirmative.

Ms. Turnbo stated that a hardship is not evident and she is not supportive of the application.

Mr. Bolzle noted that the off-street parking is too far away to be reasonably useable, and these types of applications have typically been denied by the Board. He pointed out that there were neighborhood concerns as to the bare minimum provision for on-site parking when the development was initially approved. Mr. Bolzle noted that the project is rather isolated and there is not an active agreement for sharing of parking, as is the case in other areas of the City. He disagreed with the stated hardship as a mixed use development, since the project represents only 15% of the Code requirement for this type of development.

Mr. White remarked that the hardship is self-imposed in this case, and the presented parking solution is totally unenforceable.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; Doverspike, "absent") to **DENY** a **Variance** to permit a portion of the required off-street parking to be located on a lot other than the lot containing the principal use - **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING, GENERAL REQUIREMENTS** - Use Unit 12; finding that the off-site parking is too far from the principal use to be reasonably useable; finding that the applicant failed to present a hardship that would warrant the granting of a variance;

Case No. 17293 (continued)

and finding that approval of the request would be detrimental to the neighborhood and violate the spirit, purpose and intent of the Code; on the following described property:

Lots 4 & 5, Block 1, Terwilleger Heights and Lots 1, 2, 3, 4, 5 and 9, Block 1, Terwilleger Terrace, additions to the City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:27 p.m.

Date Approved 2-13-96

Norma Lusk
Chair