

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 560
Thursday, April 5, 1990, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF PRESENT | OTHERS PRESENT |
|--|-----------------------|------------------------------|--|
| Bolzle Bradley Chappelle Fuller White, Chairman | | Gardner Moore Richards | Jackere, Legal Department Hubbard, Protective Inspections |

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, April 3, 1990, at 11:07 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Bradley, Chappelle, White, "aye"; no "nays"; no "abstentions"; Fuller, "absent") to **APPROVE** the Minutes of March 15, 1990.

UNFINISHED BUSINESS

Case No. 15390

Action Requested:

Variance to waive the screening requirements along the property; lines abutting an R District - **Section 1211.3 Use Conditions** - Use Unit 11, located 8117 East 15th Street.

Presentation:

The applicant, **Ed Hawkins**, 8119 1/2 East 15th Street, Tulsa, Oklahoma, stated that he has met with the neighbors, and agreed to construct a screening fence on the north boundary line of his property. It was noted that a fence is not required on the north boundary, and it will be installed to accommodate the neighbors to the north. He requested a waiver of the screening requirement on the OL zoned property to the east, as his mother owns and lives on that tract.

Comments and Questions:

In response to Ms. Bradley, Mr. Jackere advised that a tie contract could be used to tie the two lots owned by the applicant and his mother.

Case No. 15390 (continued)

Mr. Gardner informed that the purpose of the screening requirement is for the benefit of the properties affected. He pointed out that approximately 90% of the commercial zoning along all arterial streets in Tulsa was prior to 1970, with no screening fence required. He advised that these existing businesses are not required to install screening unless some type of activity on the property requires a Building Permit.

Ms. Bradley asked the applicant to address the hardship for the case, and Mr. Hawkins replied that the property is unique in that his mother lives on the property to the east. He further stated that his mother is concerned with security if the fence is installed between the two properties.

Protestants: None.

Interested Parties:

Staff received a letter (Exhibit A-1) from an abutting property owner to the north, which stated that she is not opposed to the application.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-1-0 (Boizle, Chappelle, White, "aye"; Bradley, "nay"; no "abstentions"; Fuller, "absent") to **APPROVE** a **Variance** to waive the screening requirements along the property; lines abutting an R District - **Section 1211.3 Use Conditions** - Use Unit 11; finding that the installation of a screening fence on the east boundary would screen two pieces of property, which are both owned and occupied by the applicant, and the granting of the request will not be detrimental to the neighborhood; on the following described property:

West 100' of Lot 5, less the west 25', Block 10, Forest Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15394

Action Requested:

Special Exception to permit a manufactured home in an AG zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9, located 2517 West 91st Street.

Presentation:

The applicant, **Ric Poston**, 2517 West 91st Street, Tulsa, Oklahoma, submitted a packet (Exhibit B-2) containing an appraisal report, brochure and plot plan, and explained that he previously appeared before the Board and has returned with additional information

Case No. 15394 (continued)

concerning the application. Mr. Poston submitted photographs (Exhibit B-3) of surrounding properties, and noted that many of the homes in the area are older farm homes that existed before the newer homes were constructed. He stated that the proposed manufactured home will be comparable to many homes in the area, and a copy (Exhibit B-1) of real estate transactions regarding surrounding properties was submitted. The applicant stated that show horses are kept on the property, which require constant supervision, and asked the Board to approve the request for a manufactured home at this location.

Comments and Questions:

There was discussion as to the improvements that are planned for the property, and Mr. Poston informed that he plans to install the manufactured home on concrete piers and add landscaping.

Ms. White asked what improvements will be completed in the near future, and Mr. Poston stated that he will build a porch across the front of the unit, add skirting and install landscaping.

In response to Ms. Bradley, Mr. Poston stated that the proposed location of the manufactured home was chosen because of the need to have the house near the barn for security purposes.

In response to Ms. White's question concerning the classification of the unit in question, Mr. Jackere advised that some manufactured homes meet all of the criteria for a single family dwelling; however, the unit in question does not comply with all City Code requirements, and requires relief from this Board.

Protestants:

Glen Strobel, 2723 West 91st Street, Tulsa, Oklahoma, stated that his land abuts the subject property, and he is opposed to the installation of a mobile home at this location. Mr. Strobel stated that the majority of the homes surrounding the property are in the \$200,000 price range. He pointed out that the only mobile homes that are located in the area were installed prior to City annexation. He asked the Board to preserve the integrity of the neighborhood and deny the application.

Additional Comments:

Mr. Bolzle stated that he has viewed the property and found the existing barn area to be clean and well maintained. He pointed out that there are a number of homes in the area that are comparable in size and appearance to the proposed manufactured dwelling.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a manufactured home in an AG zoned district - **Section 310. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9; per plot plan submitted; subject to the manufactured home being placed on a

Case No. 15394 (continued)

permanent foundation and skirted; finding that there are numerous homes in the area that are similar in size and construction; and that approval of the special exception request will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

West 300' of E/2, SE/4, Section 15, T-18-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15401

Action Requested:

Variance to permit a detached accessory building in the side yard - **Section 420.2 A 2 ACCESSORY USE CONDITIONS** - Use Unit 6.

Variance of the required 20' setback from the west property line to 0' to permit the construction of a detached accessory building - **Section 430.1 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located NE/c of West 38th Street South and South 31st West Avenue.

Presentation:

The applicant, **Delphine Harris**, 2923 West 38th Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit X-1) and requested permission to construct a garage on the west side of an existing dwelling. She informed that a storage building is located on the east portion of the lot.

Comments and Questions:

Mr. Gardner stated that there may be a problem with the plot plan, as it indicates that the building is to be setback 31' from the centerline of 31st Street, which would be partially on City owned property.

Ms. Harris stated that she is not sure that the correct drawing has been submitted to the Board. She stated that there has recently been a death in the family, and she is uncertain as to which plan is correct.

Ms. Hubbard stated that the plans have been revised several times, and suggested that the case could be continued to allow further review of the application.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzie, Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 15401 to April 19, 1990.

NEW APPLICATIONS

Case No. 15428

Action Requested:

An appeal of a decision of an administrative official - City of Tulsa Building Inspector's Issuance of Building Permit No. 51279, March 13, 1990 - **Section 1650. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, located 1503 East 15th Street.

Comments and Questions:

Mr. Jackere informed that counsel for the owners of the subject property has filed a request to intervene and dismiss the appeal (Exhibit C-1).

A letter and packet (Exhibit C-5) containing items pertaining to Case No. 15428 were submitted by Paula Hubbard, Chief Zoning Officer.

Interested Parties:

Roy Johnsen, 324 Main Mall, Tulsa, Oklahoma, stated that he is representing **Carl Leikam** and **R. K. Leikam**, owners of the property in question. He informed that a Building Permit was issued by the Building Inspector to allow the operation of Alfredo's Restaurant on the subject property. He stated that the decision was appealed by the Swan Lake Neighborhood Association, which is technically the applicant in this case. Mr. Johnsen asked the Board to recognize the right of his client to intervene in this matter and pointed out that normally associations do not file applications. He pointed out that it is a legal concept that anyone having a right to bring a proceeding should have some protective interest in the subject matter of the proceeding. Oklahoma Statutes state that any person aggrieved may bring an appeal from the determination of an administrative official. Mr. Johnsen questioned the right of the association to commence the proceedings when dealing with the property of his client, as they do not own property that would be affected by the restaurant. Mr. Johnsen submitted a packet (Exhibit C-2) containing photographs, a Zoning Clearance Permit, application for food license, restaurant menu, Yellow Page advertisement, newspaper articles and numerous letters, to substantiate the fact that a restaurant has been at this location for many years. A site plan (Exhibit C-4) was submitted by Mr. Johnsen.

Ms. Bradley asked Mr. Johnsen if the association could represent one of its members, and he replied the Statute states that the person aggrieved can bring action.

Mr. Jackere stated that there are two views in courts around the country. He informed that one is a very restrictive view, which allows only a property owner in the area, whose interest could be harmed, to bring a grievance, and the other is a liberal view, which would allow an association to make the application of appeal as a

Case No. 15428 (continued)

party litigate. He referred to a previous case heard in New York to substantiate his statement concerning appeals by associations. He noted that criteria for approval of the case was the capacity of the organization to assume an adversary position, that the size and composition of the organization reflect a position fairly representative of the interest which it seeks to protect and that membership in the organization be open to all residence in the neighborhood.

Presentation:

The applicant, **Swan Lake Neighborhood Association**, was represented by Fred Stowell, president of the organization. He stated that he has reviewed the New York case referred to by Mr. Jackere, and the Swan Lake Neighborhood Association meets the criteria cited in that case. He informed that the residents in the area have requested that the association intervene on their behalf. It was noted by Mr. Stowell that the association represents homeowners, as well as merchants in the area. He pointed out that the fact that the State Statutes define a person as a corporation, association, partnership or an individual, would allow the association to appeal the decision of the Building Inspector.

Additional Comments:

In response to Mr. Jackere, Mr. Stowell stated that the association has approximately 1000 members.

Mr. Jackere asked if there was a meeting of the association with regard to the appeal, and Mr. Stowell replied that the Executive Board met to consider requests they had received concerning the situation. He informed that it was decided by a majority vote to remove funds from the treasury and appeal the decision of the Building Inspector.

Mr. Jackere asked Mr. Stowell if the Executive Board has the power to make the decision to appeal, and he answered in the affirmative.

Mr. Fuller asked if members of the Swan Lake Homeowners Association live near the property in question, and Mr. Stowell replied that members live within 300' of the restaurant.

In response to Mr. Chappelle, Mr. Stowell stated that Teresa Newham and Bruce Denny live in the 1500 block of Rockford Avenue, and requested that the decision of the Building Inspector be appealed by the association.

Ms. White asked if merchants in the area are involved in the request for appeal, and Mr. Stowell stated that he has a letter from one business owner that is in favor of the appeal.

Mr. Fuller pointed out to Mr. Johnsen that he would have little to gain if the motion to dismiss is approved and the property owners within 300' of the restaurant then appealed the decision of the Building Inspector.

Case No. 15428 (continued)

Mr. Johnsen pointed out that it is not uncommon for a court of law to hear evidence presented by both sides. He stated that, as the party most affected by the decision, he is in agreement with the Board hearing the presentation of the neighborhood association.

Mr. Jackere suggested that both a representative for the neighborhood association and Mr. Johnsen be allowed to present their view. He stated that, in the event the case is appealed to District Court, a full review of both positions will be provided.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzie, Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Request to Intervene**.

Presentation:

Fred Stowell, 1340 East 19th Street, Tulsa, Oklahoma, president of the Swan Lake Neighborhood Association, stated that the association is in favor of a strong economic anchor along 15th Street, and have supported other requests for variances. Mr. Stowell referred to the Cherry Street Study and its reference to parking in the area, and informed that parking is the basic concern in this instance. He informed that Panache Catering has been operating at this location since 1984, and is listed under Use Unit 14 in the Zoning Code. Mr. Stowell stated that the business has never been reclassified under Use Unit 12. It was noted that Panache moved to another area of the City and Alfredo's Restaurant is proposing to occupy the building. He pointed out that 85 patrons can be served in the restaurant and 27 parking spaces are shown on the site plan, some of which are stacked two deep and others are on the easement. A letter from the Swan Lake Homeowners Association (Exhibit C-6) was submitted for review.

Comments and Questions:

Mr. Fuller asked how many parking spaces are required, and Ms. Hubbard informed that twenty seven spaces are shown on the plot plan; however, 15 spaces encroach into the Major Street setback along 15th Street, 5 spaces encroach on the City right-of-way along Rockford and the spaces abutting the alley are stacked two deep (prohibited by the Code).

Mr. Gardner pointed out that the Building Inspector made the finding that the restaurant is non-conforming and does not have to meet the current parking requirements. Mr. Gardner stated that the Board must determine if there has been a change in the use unit.

Mr. Stowell stated that the Certificate of Occupancy was issued to a catering service, Use Unit 14, and the business that is proposed for the location is a restaurant, Use Unit 12, which would have to comply with current parking requirements.

Interested Parties:

Mr. Johnsen stated that the Building Inspector has reviewed the facts and made the determination that Alfredo's is entitled to a Building Permit. He reviewed the documents (Exhibit C-2) furnished to substantiate the use of the property as a restaurant prior to 1984, and pointed out that there were no off-street parking requirements in CH Districts at that time. Mr. Johnsen further noted that the Code does not define restaurant or caterer.

Mr. Fuller asked Mr. Johnsen if the Panache had tables for seating customers, and he answered in the affirmative.

In response to Ms. Bradley's question concerning the classification of the use under Use Unit 14, Mr. Johnsen stated that the Certificate of Occupancy was issued to Panache under Use Unit 12.

Protestants:

Lonny Davis, 1503 East 21st Street, Tulsa, Oklahoma, stated that if the previous restaurant was properly permitted as a restaurant it would be a nonconforming use; however, if it was not properly licensed as a restaurant it is not a nonconforming use, and should conform to current Code requirements.

Mr. Fuller asked Mr. Davis if he is contending that Panache was not properly licensed as a restaurant, and he replied that it was not properly licensed.

Mr. Jackere advised Mr. Davis that it is the burden of the Swan Lake Homeowners Association to provide evidence that the business was a catering service and not a restaurant.

Patricia Dickey, stated that she works with the neighborhood association and represents four merchants along Cherry Street. She informed that the owner of the building across the street (audio visual business) stated that Panache applied to the Board for restaurant use on the property in question and the request was denied. Letters (Exhibit C-3) from the four businesses were submitted.

Mr. Gardner stated that Board of Adjustment records do not reflect a Board action denying a request for restaurant use on the subject property.

Robert Newham, 1515 South Rockford, Tulsa, Oklahoma, pointed out that the neighborhood is saturated with businesses requiring parking that is not available. He stated that a parking lot should be constructed if a restaurant is allowed at this location.

Nancy Gomez, stated that she is the president of Chimi's Mexican Food, which is located in the 1400 Block of East 15th Street. Ms. Gomez stated that she welcomes competition in the neighborhood, but pointed out that the area does not have sufficient space to park additional cars.

Case No. 15428 (continued)

Ms. White pointed out that the Board is aware of the parking problem in the neighborhood, but parking is not an issue in this case.

Mr. Jackere advised that the issue before the Board is whether or not the Building Inspector erred in concluding that the use was a restaurant before there was a parking requirement for the CH zoned property.

Bruce Denny, 1511 South Rockford, Tulsa, Oklahoma, stated that he is concerned with the indifference toward the parking problem in the neighborhood.

Arnold Simmons, 1432 South Trenton, Tulsa, Oklahoma, stated that he has lived in the area for 45 years, and does not believe a restaurant was in operation on the subject property.

Interested Parties:

Jerry Darneal, president of the Cherry Street Merchants Association, stated that the previous protestants do not represent the view of all members of the association. He remarked that it is his opinion that both a catering service and a restaurant were operating at this location, which the menu substantiates.

Christopher Proctor, 1324 East 16th Street, Tulsa, Oklahoma, stated that he lives in the area and his views are not represented by the Swan Lake Neighborhood Association. He requested that that the appeal of the decision of the Building Inspector be denied.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzie, Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** an **Appeal** of the decision of an administrative official - City of Tulsa Building Inspector's issuance of Building Permit No. 51279, March 13, 1990 - **Section 1650. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**; and **UPHOLD** the **Decision** of the Building Inspector; finding the restaurant use to be nonconforming; and finding that there has been continuous operation of a restaurant at this location since 1984; on the following described property:

South 51.4', Lot 12, Block 5, Bellview Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15411

Action Requested:

Special Exception to permit a children's nursery, a day-care center and a kindergarten in an OL zoned district - **Section 610. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 5, located SW/c East 17th Street and Utica Avenue.

Presentation:

The applicant, **Charles E. Norman**, 2900 Mid-Continent Tower, Tulsa, Oklahoma, who represented St. John Medical Center, submitted a plot plan (Exhibit D-1) and gave a brief history of the existing Child Development Center (Exhibit D-2). He informed that the hospital is currently operating a child care center on the southeast corner of East 17th Street and South Utica Avenue to accommodate its employees. Mr. Norman explained that the existing Child Development Center was approved in 1983, and was issued a State license permitting no more than 200 children on the premises at any given time. It was noted that the center serves two work shifts and is in operation from 7:00 a.m. to 11:30 p.m., Monday through Saturday, with a total enrollment of 270 children. Mr. Norman stated that the child care center has a waiting list containing 171 names, and the purpose of this application is to seek permission to locate the Child Development Center Annex in a residential office structure located on the southwest corner of East 17th Street and South Utica Avenue. Photographs (Exhibit D-3) were submitted. In reference to parking, the applicant informed that the property in question consists of two lots, with access to the annex being from the southern lot and parking for both lots being shared. He stated that approximately 30 kindergarten age children will be accommodated at the new location, with no meals provided and no playground equipment installed, as the existing center across the street will provide these services.

Comments and Questions:

Ms. Bradley asked if employee parking will be provided, and the applicant replied that the three or four employees are required to park in the new parking lot provided on Victor. He informed that the facility will have sufficient parking to comply with Code requirements.

Protestants:

Ms. White informed that the Board has reviewed a letter of protest from Randy and Bernadette Pruitt and Glen Nelson (Exhibit D-4), who are concerned with traffic, noise, loss of property value and neighborhood encroachment.

Nell Bradshaw, 1628 South Victor, Tulsa, Oklahoma, stated that she is not strongly protesting, but is concerned with St. John's employees not parking in the lot provided. She stated that it was her understanding that a noise barrier would be installed for the existing day care facility.

Doris Collins, John Hausam Realtors, represented **Randy and Bernadette Pruitt** and stated that St. John's officials had assured the Pruitts, who live behind the subject property, that no further construction would take place on the west side of Utica.

Case No. 15411 (continued)

Barbara Day, Swan Lake Neighborhood Association, requested that the application be denied, as any negotiations to restrict the use have failed. She pointed out that St. John has continued to build and expand, and the neighborhood association's primary objection is the fact that an outdoor recreation area attached to the rear. She pointed out that, although playground equipment will not be installed, the children will have access to the playground area, which will create a problem for the adjacent property owners. Ms. Day stated that the hours of operation are also a major concern, as these hours could be increased to cover all three hospital work shifts, resulting in a continual flow of traffic in the neighborhood. She requested that the use not be allowed to expand across the street into the Swan Lake neighborhood.

Lonnie Davis, 1503 East 21st Street, Tulsa, Oklahoma, suggested that the hospital expand to the north or east of the present facility and asked the Board to deny the application.

Patricia Manion, 1703 South Troost, Tulsa, Oklahoma, stated that the hospital continues to encroach into the residential neighborhood, and asked the Board to deny the application.

Patricia Stines, 1715 South Troost, Tulsa, Oklahoma, stated that the added child care facility will further aggravate the existing noise and traffic problem in the area, and the placement of only 30 children will not substantially reduce the long waiting list.

Gene Streck, 1641 East 17th Street, Tulsa, Oklahoma, stated that his house is abutting the parking lot, and is opposed to the amount of noise that would be generated by the day care center.

Applicant's Rebuttal:

Ms. White asked Mr. Norman to address the subject of employee parking and the noise barrier for the existing center.

Mr. Norman stated that employee parking is provided on the east side of Victor, between 17th Street and 19th Street.

In response to Ms. White, Mr. Norman stated that St. John Medical Center will provide approximately 3000 spaces and all employees are told to park in paces. He pointed out that any employee that does not follow hospital instructions in regard to parking is violating a policy of the institution.

Mr. Norman stated that noise is not an issue, as the children are only outside for 30 minutes in the morning and approximately 30 minutes in the afternoon. He informed that the children will be transported by van from one facility to the other, and pointed out that approximately 37 trips per day would be generated by the day care center. It was noted by the applicant that a medical office would generate much more traffic than a day care center, and would be allowed by right in the OL District. Mr. Norman informed that the two lots were a gift to the hospital and were not a part of the

Case No. 15411 (continued)

acquisition plan and are not part of the long range plan. He informed that the Planning Commission has adopted the Utica Medical Corridor Special Study which recognizes the Utica Avenue area between 21st Street and 11th Street as being appropriate for the development of medical and medically related facilities. He stated that the study specifically limits any use on the west side of Utica to a depth of 150', which is the depth of the lots in question. Mr. Norman noted that that the child care center is not a profit making business, but is an employee benefit, as St. John contributes one-third of the operating budget.

Additional Comments:

Ms. White stated that the property is being used for a medically related purposes, and if the area was appropriate for a day care center the application would not be before the Board. She stated that it is her opinion that the OL zoned property serves as a buffer for the Swan Lake neighborhood.

Mr. Gardner advised that the Board must make the finding that the proposed use as a special exception is appropriate for the area. He stated that the special study recognizes the fact that there is a hospital at 21st and Utica and one at 11th and Utica, with the properties between these two locations being developed or redeveloped for medical or medical related uses. He noted that the study outlines the acquisition area for St. John and Hillcrest Hospitals.

Mr. Bolzle asked if the playground will be lighted, and Mr. Norman stated that there will be no special lighting on the playground.

Mr. Chappelle stated that he cannot foresee a traffic problem created by the child care facility, as Utica is a busy street and carries a lot of traffic. He pointed out that no new construction is planned, and he does not feel that the children will create a great deal of noise.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 2-3-0 (Bolzle, Chappelle, "aye"; Bradley, Fuller, White, "nay"; no "abstentions"; none "absent") to **APPROVE*** a **Special Exception** to permit a children's nursery, a day-care center and a kindergarten in an OL zoned district - **Section 610. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 5; subject to no day care use in the southern structure; subject to hours of operation being, 7:00 a.m. to 11:35 p.m.; and subject to no outdoor activities after dark.

Lots 1 and 2, and 10' of the vacated alley adjacent thereto, Block 18, Orcutt Addition, City of Tulsa, Tulsa County.

***The application was denied, due to the lack of three affirmative votes.**

Case No. 15413

Action Requested:

Variance of the front yard setback requirement measured from the centerline of 33rd West Avenue from 85' to 40' - **Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 4816 South 33rd West Avenue.

Presentation:

The applicant, **Ronald Finfer**, 6901 South Yorktown, Tulsa, Oklahoma, who submitted a plot plan (Exhibit E-2) and photographs (Exhibit E-1), stated that he is representing **Midwestern Construction Company**, and the owner of the property in question.

Mr. Finfer informed that his client is proposing to install a 10' by 20' metal carport. He pointed out that the houses along West 33rd are near the street and there are other carports in the area.

Comments and Questions:

Mr. Jackere asked Mr. Finfer if his client's house has a garage, and he replied that the garage has been enclosed to provide additional living space.

Mr. Fuller indicated support of the application, due to the mixed uses in the area and the fact that the houses in the neighborhood have been constructed close to the street.

There was Board discussion concerning the setback requirements, and Ms. Hubbard advised that the proposed carport will be outside the City right-of-way, but within the Major Street Plan setback.

Board Action:

On **MOTION** of **FULLER**, the Board voted 3-2-0 (Bolzie, Fuller, White, "aye"; Bradley, Chappelle, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the front yard setback requirement measured from the centerline of 33rd West Avenue from 85' to 40' - **Section 430. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plot plan submitted; and subject to no enclosure of the carport; finding that there are mixed uses in the area, and the houses along 33rd West Avenue have been constructed close to the street; and finding that the granting of the variance request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Lot 4, Block 1, Carbondale Third Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15414

Action Requested:

Variance of the minimum front yard setback measured from the centerline of East 17th Street from 55' to 50.8' - **Section 730. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 5.

Variance of the minimum side yard setback abutting a residential district from 10' to 0' to permit an addition to an existing building - **Section 730. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 5, located 7915 East 17th Street.

Presentation:

The applicant, **Elmo Massey**, was represented by **Bill Hefner**, Route 3, Sapulpa, Oklahoma, who submitted a plot plan (Exhibit F-1) for a proposed expansion to an existing structure. He explained that Mr. Massey purchased the residential lot to the west, but was under the impression that it was located in a floodplain and construction would be prohibited. Mr. Hefner requested permission to extend the addition up to the west lot line.

Comments and Questions:

Mr. Gardner stated that a huge drainage swale is located on the lot to the west, and suggested that the Board could require that the two lots be tied together, with no construction being allowed on the west lot.

Ms. White asked Mr. Hefner if his client would agree to the execution of a tie contract on the two lots and he answered in the affirmative.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Variance** of the minimum front yard setback measured from the centerline of East 17th Street from 55' to 50.8' - **Section 730. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the minimum side yard setback abutting a residential district from 10' to 0' to permit an addition to an existing building - **Section 730. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 5; per plot plan submitted; and subject to the execution of a tie contract on the lot containing the existing building and the lot to the west; and subject to no construction on the west lot; finding that the lot to the west of the subject tract is a flood prone area and is not suitable as a building site; and finding that granting of the requests will not be detrimental to the area or violate the spirit, purposes or intent of the Code; on the following described property:

W/2, SE/4, SE/4, NE/4, SE/4, less the east 25' Section 11, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15415

Action Requested:

Special Exception to permit a mobile home to be used as a dwelling -
Section 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -
Use Unit 9, located 428 South 38th West Avenue.

Presentation:

The applicant, **Ralph C. Sullivent**, Route 4, Box 730, Sand Springs, Oklahoma, stated that he is representing Tanglewood Baptist Church. He explained that the property in question has been donated to the church and, as a part of their benevolent program, they are proposing to install a mobile home for members that are in need of housing.

Comments and Questions:

There was discussion concerning the permanent location of the mobile home on the property.

Mr. Gardner pointed out that the applicant has not advertised for a variance of the one year time limit; however, if the Board is inclined to approve the application, the request for a variance of the time limit could be continued to the next scheduled meeting.

Board Action:

On **MOTION** of **FULLER**, the Board voted 5-0-0 (Bolzie, Bradley, Chappelle, Fuller, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a mobile home to be used as a dwelling - **Section 410. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -** Use Unit 9; and **CONTINUE** a request for a variance of the one year time limitation to May 3, 1990; finding that the use is compatible with the surrounding area, and that the granting of the special exception request will not violate the spirit, purposes or intent of the Code; on the following described property;

Lot 5, Sherwood Place Addition and Lot 8, Block 9, Parkview Place Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 12746

Action Requested:

Star Community Mental Health request approval of amended site plan, approved August 11, 1983.

Comments and Questions:

Ms. White informed that Mr. Chappelle will abstain from hearing this case.

Mr. Richards stated that an addition to the existing building is proposed and approval of an amended site plan is requested.

Case No. 12746 (continued)

Presentation:

Steve Olsen, 324 East 3rd Street, Tulsa, Oklahoma, represented the owner of the property in question, and informed that a new wing will be added to the existing building.

Additional Comments:

Mr. Jackere advised that the Board does not have the power to grant major modifications to a special exception that was previously granted.

Board Action:

On **MOTION** of **BRADLEY**, the Board voted 4-0-1 (Bolzie, Bradley, Fuller, White, "aye"; no "nays"; Chappelle, "abstaining"; none "absent") to **DENY** a request for an amendment to a previously approved site plan, Case No. 12746; finding the proposed construction to be a significant change to the previously approved plan.

There being no further business, the meeting was adjourned at 4:30 p.m.

Date Approved

4/19/1990

Janet Bradley
Vice-Chairman