

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 701**  
Tuesday, April 9, 1996, 1 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

| <b>MEMBERS PRESENT</b>                            | <b>MEMBERS ABSENT</b> | <b>STAFF PRESENT</b>           | <b>OTHERS PRESENT</b>                                                                     |
|---------------------------------------------------|-----------------------|--------------------------------|-------------------------------------------------------------------------------------------|
| Abbott<br>Bolzle<br>Box<br>Turnbo, Chair<br>White | None                  | Gardner<br>Beach<br>Huntsinger | Linker, Legal<br>Department<br>Romig, Legal<br>Department<br>Parnell, Code<br>Enforcement |

The notice and agenda of said meeting were posted in the Office of the City Clerk on Wednesday, April 3, 1996, at 9:24 a.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 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the minutes of March 26, 1996 (No. 700).

**UNFINISHED BUSINESS**

**Case No. 17320**

**Action Requested:**

Variance of the required side yard setback from 5' to 4.9' to permit an addition to the existing dwelling and a Variance of the required side yard setback from 10' to 0' to permit a carport to an existing dwelling. - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; located 3622 East 55th Street.

**Presentation:**

The applicant, **Don Bomer**, 3622 East 55th Street, represented by Lee Levinson. Mr. Levinson stated that the applicants have lived in this house for 20 years. He further stated the Bomers extended their roof to make a carport and added an addition to the back of their house. The driveway setback line at 0' has been there approximately 20 years. The applicant hired a contractor to cover the driveway and add a room on the back for approximately \$25,000.00. He submitted updated pictures (Exhibit A-4) and submitted a new plat of survey (Exhibit A-1). Mr. Levinson stated that after doing the new survey the setback line on one side of the property is 4.9' and on the other it is 0'. He further stated that the back setback line is 27' and therefore meets the required 25' setback. He requested the variance for a number of reasons. His clients have spent a considerable amount of their savings, the new roof is shingled with fire-retardant shingles and the new additions are improvements to the property and the neighborhood.

**Protestants:**

Gene Crabtree, 3706 East 55th Street, stated he believed that carports requiring variances can and will affect the character of his neighborhood. He felt that a variance of this type will encourage others to request variances. He further stated that in his neighborhood there are very few if any lots that have sufficient side yard space to build a carport without requesting a variance. He explained there are generally 10' setbacks on either side, but he pointed out this is not sufficient space for carports without a variance of this type. He further explained carports that require variances change the character of the neighborhood and requested this variance to be denied.

Ms. Turnbo asked Mr. Crabtree if he had any objection to the 5' to 4.9' variance in the back yard, he stated he did not.

F. R. Ellis, 5433 South Louisville, he stated there are three factors that are important in this case: esthetics, livability and safety. He stated the esthetics in this case is minimal and not worth making an issue of and livability only came to his mind as a result of speaking with Gary Ott who is in planning and had something to do with denying this request initially. Mr. Ott explained to him the livability factor that he was concerned with dealt with the amount of grass area. He stated he measured less than the required 5,000'. He commented he is not concerned with the addition in the back of the house, but he did feel the carport does hinder neighboring homes from a market standpoint. He mentioned the Fire Marshall stated the Codes for setbacks are extremely important because of the spreading potential of fire between buildings. Mr. Ellis expressed his concern with the fire hazard potential simply because a fire in a high wind usually will spread from roof to roof.

Case No. 17320 (continued)

Terry Thomas, 3628 East 55th, stated he owns the property east of the Bomers. He further stated he objects to the fact that the area between the homes, originally intended to share the utilities, is now closed. The established carport will force the utility crew on his property to repair the line. He explained the shortened proximity between the homes may deter a future buyer for his home and the locations under the power line could present a fire hazard. He assumed the requirements for permits and variances had been met and that he had no say about this matter. He further stated when the application was advertised, he realized he did have a say about this request. He explained he moved from East Tulsa to this location and gained an extra 5' on each side of the house. He commented that zoning laws are here to provide the proper setbacks and side yards. He expressed the extended roof line by the Bomers has infringed on his right to extend his roof line if the need arose. He pointed out to the Board that this issue of open spaces covered by the Comprehensive Plan under general policies. He described his view from the breakfast table is blocked by this structure. Where he used to see an open sky and trees, he now sees their home because it is 10' closer to his home. He addressed the only hardship pointed out by the Bomer's attorney is the money spent to construct the structure. He stated the house was built 30 years ago and there was no hardship at that time, and he does not believe there was a variance needed to construct this home originally on the property. He commented that a hardship has not manifested itself to create a need for the carport. He pointed out to the Board that there is room in front of the property to establish a carport. He stated he does not see where the terrain has created a hardship to the point that the Board needs to grant this variance. He further stated the variance to be granted will cause a detriment to the public good, impair the purposes, spirit and intent of the Code and Comprehensive Plan. He affirmed residential districts are designed to preserve openness of living areas and avoid over crowding by requiring minimum yards, open spaces, and by limiting the bulk of structures. Mr. Thomas asked the Board to strictly enforce the Code and asked that the structure be removed.

In response to Ms. Turnbo he stated he had no objection to the 4.9' variance on the other side of the house, but does object to the carport which hangs over his fence line and submitted pictures (Exhibit A-3). He confirmed the chain link fence is on his property and he owns the fence.

Lloyd Hobbs, Planning District 18 Chair, stated he received a call concerning a possible violation. He further stated he made a survey on 55th Street and he found that almost 100% of the homes from Louisville to Harvard along 55th Street conform to the standards and Codes. He described homes in the neighborhood that have made structural changes that conform to the Codes. Mr. Hobbs then pointed out that the subject home at 3622 East 55th Street did build an additional parking space, concrete slab that is an all-weather surface, but it appears to be built to the property line and the roof was extended from the house to cover the slab, which produced a carport. He explained side yards in most residential areas are called livability space and is a required yard. Some obstructions are permitted in required yards such as cornices, canopies, eaves, fireplaces or other architectural features but they may not project over 2'. He pointed out the carport at this home projects more than 2'. It projects to the property line and it is not included in the above-mentioned items. He quoted General Requirements Paragraph A ...."Off-street parking and off-street loading facilities shall not occupy required livability space."

**Applicant's Rebuttal:**

Mr. Levinson recounted Mr. Ellis' three points: 1.) esthetics, seem to be all right; 2.) livability may not be 5,000' square feet, his clients have assured him there is more than 5,000' square feet in the yard and he pointed out Mr. Ellis considered this minimal effect; 3.) Fire Marshall, Mr. Levinson agrees the setbacks are important for fire hazards, but he pointed out Mr. Ellis considered this minimal effect. He further pointed out that the new roof is shingled with fire retardant shingles. Mr. Levinson expressed that Mr. Ellis' protest actually support the Bomers' application. He addressed Mr. Thomas' concerns about the utility easement and submitted a letter of consent from PSO (Exhibit A-2) stating PSO has no problem with the easement. Mr. Levinson stated the roof being extended over the driveway improved the property value and he reiterated the Bomers have spent \$25,000.00 to upgrade their home. He requested the Board to grant the variance.

**Comments and Questions:**

Mr. Gardner stated that since there is 5' and 10' side yard requirement, we are only talking about 1/10 of a foot on the 4.9' side yard setback. He further stated he did not think the 4.9' side yard setback is the issue.

Ms. Turnbo stated she believes the only issue is the encroachment of the carport.

Mr. Bolzle stated he could not find a hardship for the carport issue, and the carport has a substantial effect on the adjoining properties.

Case No. 17320 (continued)

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no, "absent") to **APPROVE Variance** of the required side yard setback from 5' to 4.9' to permit an addition to the existing dwelling; finding the required side yard setback from 5' to 4.9' to permit an addition to the existing dwelling will not be detrimental to the area or violate the spirit, purpose or intent of the Code; and **DENY Variance** of the required side yard setback from 10' to 0' to permit a carport on an existing dwelling. - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; finding the required side yard setback from 10' to 0' to permit a carport to the existing dwelling will be injurious to the neighborhood and finding the approval of the variance would violate the spirit and intent of the Code and would not be in harmony with the Comprehensive Plan; on the following described property:

Lot 1, Block 1, Lou North Woodland Acres 5th, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17331**

**Action Requested:**

Variance of the 200' setback from the centerline of East 71st Street to 108'. - **SECTION 803. BULK AND AREA REQUIREMENTS IN THE CORRIDOR DISTRICT;** Variance of the required all-weather surface to permit gravel parking. 1303.D. **DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, and a Variance of the landscape requirement to require no landscaping. - **SECTION 1001. LANDSCAPE REQUIREMENTS; APPLICABILITY AND EXEMPTIONS** - All of the above to permit a temporary tent with a fruit and vegetable stand for 5 years in a CO-zoned district; Use Unit 2, located East of the SE/c US169 and East 71st Street.

**Presentation:**

The applicant, **John Moody**, 5555 East 71st Street, representing Sooner Produce, submitted Days of Operation (Exhibit B-1). Mr. Moody stated Sooner Produce requests permission for utilization of a tent on the following dates: Erection of tent on April 15th; sales commencing May 1st and continue through September 31st; close the business on October 1st; reopen on November 15th for Christmas Tree Sales and continue through December 25th; remove tent on December 26th and conduct live tree sales on-site without a tent during months February, March and April. He pointed out the actual tent operations will be for a period of 153 days, operating from May 1st through September 31st, for a period of 41 days operating from November 15th through December 25th. He reminded the Board of the amended application from five (5) years to two (2) years and requested the waiver of requirement for the landscaping, pavement of the off-street parking and variance for the 200' setback from the centerline of East 71st Street to 108'. He indicated his client perceives this to be a transitional or holding use until such time the balance of this property develops, as is anticipated along the 71st Street Corridor.

**Comments and Questions:**

In reply to Mr. Bolzle, Mr. Gardner stated in any district other than Corridor, a variance for the 150 days operation is needed. He further stated 150 days operation is a standard set out in the ordinance. He explained this particular application is a temporary use and at some point the land will be too valuable and will be developed into something else.

In response to Mr. Bolzle, the applicant said the Planning Commission had reviewed the site plan and approved it subject to the Board of Adjustment's approval and conditions.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a Variance of the 200' setback from the centerline of East 71st Street to 108'. - **SECTION 803. BULK AND AREA REQUIREMENTS IN THE CORRIDOR DISTRICT**; Variance of the required all-weather surface to permit gravel parking. 1303.D. **DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, and a Variance of the landscape requirement to require no landscaping. - **SECTION 1001. LANDSCAPE REQUIREMENTS; APPLICABILITY AND EXEMPTIONS** - All of the above to permit a temporary tent with a fruit and vegetable stand for two (2) years in a CO-zoned district. Use Unit 2, per plan submitted; subject to the prepared days of operation for Sooner Produce; subject to the approval being for a period of two (2) years and subject to the final approval of the corridor site plan by the City Council; finding the use is temporary; finding 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:

Part of the NE/4 Sec. 7, T-18-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma described as follows: starting at NE/c said Sec 7; thence N89°46'10"W for 1087.49'; thence S00°13'50"W for 25.00'; thence S84°06'54"W for 20.18' to POB; thence S00°13'50"W for 172.85'; thence N89°46'10"W for 160.00'; thence N00°13'50"E for 155.71'; thence N84°06'54"E for 160.92' to POB.

**Case No. 17333**

**Action Requested:**

Variance to permit a nonconforming structure to be enlarged. **SECTION 1405.A. STRUCTURAL NONCONFORMITIES**, Variance of the required setback from an abutting R district from 10' to 0' to permit new construction on an existing nonconforming building. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** and a variance of the required setback from the centerline of 15th Street from 100' to 50' to permit new construction on an existing nonconforming building up to the property line. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**, Variance to permit open-air storage or display of merchandise within 300' of an abutting R district, all to permit a bicycle shop. **SECTION 1214.C. USE UNIT 14. SHOPPING GOODS AND SERVICES**; Use Conditions, located SW/c East 15th Street and South Owasso.

**Presentation:**

The applicant, **Gaylord Oscar Herron**, 106 East 25th Street, submitted photographs (Exhibit C-1) and Drawing to Scale (Exhibit C-2). The applicant further stated the photographs represent the current structure and may help to show the look of the establishment. He requested the expansion toward the front to within 50' of centerline and expansion to the west as well as the open-air storage or display of merchandise .

**Comments and Questions:**

Mr. Bolzle asked the applicant if his proposed building line will be built toward 15th Street. He answered affirmatively.

Mr. Bolzle asked Mr. Herron if he would be any closer to 15th Street than any of the adjacent residential structures. He responded that he would not and indicated the north face of the house west of his property is closer than the 50' centerline, and there are several restaurants right up against the street. He further explained that the prior owner of this lot had an island with fuel pumps that have been removed, but the island is still there, so he will not be building beyond what is already there, just covering the islands.

Case No. 17333 (continued)

**Protestants:**

Troy Langham, 1508 S. Owasso, stated he is located immediately south of the applicant's structure. Mr. Langham asked the Board if Mr. Herron is amending his application that requested a variance on the 10' setback on the rear, and Ms. Turnbo informed him that the requested variance had been denied during the March 26, 1996, Board of Adjustment meeting. He further stated that there has not been a demolition of the structure. Mr. Langham informed the Board that his property is the point property for his neighborhood for the HP zoning overlay. He stated Mr. Herron's structure encroaches into the setback line to the south, which has placed this structure within 7' 2" of his home. The building material is obviously not in conformance with the codes of the City, since they are fiberglass and are not fire-retardant materials. He stated he had no objection to the applicant building toward 15th Street and requested the Board to require him to maintain a proper amount of parking to prevent parking on 15th Street. He further requested Mr. Herron expand to the west to reduce further impact on his home.

**Applicant's Rebuttal:**

The applicant, Mr. Herron, responded to Mr. Bolzle that he doesn't really want open-air display because it exposes bikes to the elements. He stated a few bikes will be out for customers to see and that will be the nature of his display. He responded he had no objection to limiting the number to six (6) bikes on display outside.

Ms. Abbott asked the applicant if he planned to build east or west. He responded if he cannot go north to within 50' of centerline of 15th Street, then west would be the reasonable direction to go, with a minimal structure of 25' x 12' to fit within the parameters.

Ms. Abbott asked if he would have a problem if the Board approved this variance subject to review of his site plan. The applicant responded he would not have a problem with that condition, but he reminded the Board he prefers to build toward the south. He stated if it is not possible then he will build to the west. He further stated if the variances are not approved, he will have to move his business.

In response to Ms. Turnbo, the applicant indicated he will not expand to the east where he has located his parking area.

Mr. Bolzle stated the Staff expressed concern because of the delicate nature of this property being located adjacent to the HP district. There may be certain CS uses that need to be restricted, and some of the uses will be self-restricting because of parking issues.



Case No. 17333 (continued)

Mr. Gardner suggested to the Board to consider limiting Mr. Herron to bicycle sales use only and he will have to come back to the Board for review with a change of use.

Ms. Turnbo agreed it should be limited to bicycle sales and limited construction to the east.

Ms. Abbott asked the applicant if he would be doing bicycle repairs and if the repairs will be inside. He replied affirmatively.

Mr. Bolzle asked the applicant the total square footage he will have according to his plans for expansion, he responded he would have approximately 1600 square feet.

Mr. Bolzle informed the Board that the Staff may want to restrict this to Use Unit 14 and exclude Sections two (2) and three (3) which are building materials, supplies and service establishments, so that it could not be reused as a gas service station.

Mr. Bolzle asked the applicant what his hours and days of operations would be. He replied Monday through Saturday, 10:00 a.m. to 6:00 p.m.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Variance** to permit a nonconforming structure to be enlarged. **SECTION 1405.A. STRUCTURAL NONCONFORMITIES, Variance** of the required setback from the centerline of 15th Street from 100' to 50' to permit new construction on an existing nonconforming building as presented. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, Variance** to permit open-air storage or display of merchandise within 300' of an abutting R district, subject to a maximum of six (6) bicycles being displayed outside and no other items allowed in display, all to permit a bicycle shop. **SECTION 1214.C. USE UNIT 14;** subject to applicant returning for site plan approval; finding that approval of the request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; and **DENY** a **Variance** of the required setback from an abutting R district from 10' to 0' to permit new construction on an existing nonconforming building. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS USE UNIT 14;** finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request to the south; on the following described property:

Lots 2 & 3 & N 5' Lot 4, Block 2, Amended Plat of Morningside Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17335**

**Action Requested:**

Variance to permit 15 of the required parking spaces 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** and Variance to permit expansion of a nonconforming structure to add a drive-thru on the north side of the building, **SECTION 1405.A. STRUCTURAL NONCONFORMITIES** - Use Unit 12, located 2115 N. Cincinnati.

**Presentation:**

The applicant, **Arlando Parker**, 1027 E. Brooks, Apt. C, Norman, requested a variance for the property at 2115 N. Cincinnati to allow for expansion of the existing building to accommodate Blimpie's Subs and Salads franchise and also an I Can't Believe It's Yogurt franchise. He further stated the variance consists of expansion of a drive-thru to the existing facility and also expansion to the east for additional parking that will be required by the City of Tulsa's parking code.

**Comments and Questions:**

Mr. Bolzle asked the applicant if the parking on the other lot is adjacent to the existing establishment, the applicant answered affirmatively.

Mr. White asked the applicant if there are one or two additional lots, he responded that the existing building splits two lots, so it is the one to the east that needs to be added for the parking requirement.

Mr. Bolzle asked the applicant if the lot is across Woodrow, the applicant answered that the lot is to the east.

Ms. Abbott indicated the variance is needed to allow 12 of the required parking spaces to be located on another lot, and the applicant agreed.

**Interested Parties:**

Dwain Midget, Mayor's Office, expressed his appreciation to the Board for allowing this case to be continued from March 26, 1996, to allow the applicant and residents in the area to meet with Mr. Parker to work out issues. He further expressed the residents think this is a quality development and has potential of further enhancing the area. He stated the residents recommend approval of the requested variance subject to the following conditions: 1.) Vehicular access to the development site be closed to the north along Woodrow Street in order to prevent commercial traffic from flowing into the residential area; 2.) The development project shall be screened from view along the property line adjacent to the residential property to the east and north of the development site, screening should also be provided along the south boundary line adjacent to the existing commercial property; 3.) Screening should be designed to help enhance the visual character of the neighborhood and buffer certain adverse effects associated with commercial property that abuts residential property; 4.) Adequate lighting shall be provided on the development site, but the height and location of light should not adversely impact residential property adjacent to the site; 5.) Hours of operation shall be between 7:00 a.m. to 11:00 p.m.; 6.) Include as much landscaping as possible. He stated on this site it is economically feasible to help continue the development standards that has been established with the North Point and Phillips 66 station development projects. He further stated Mr. Parker met with the neighborhood representative and the Mayor's office and all are in agreement with the above conditions. Mr. Midget requested approval of the variance.

**Additional Comments:**

Mr. Bolzle asked Mr. Midget if he requested screening along the south boundary line, he answered affirmatively. Mr. Bolzle informed Mr. Midget that typically that would not be required and he asked if there were residences along the south boundary line, he responded it is existing commercial property on the corner of Cincinnati and Virgin and is a heavy drug traffic area. He explained Mr. Parker had intended to screen it off to keep this activity from interfering with his development.

Ms. Turnbo asked the applicant if he agreed with all the requirements Mr. Midget requested, he answered affirmatively and stated the requests were already in his overall plans.

Mr. Bolzle asked Mr. Parker if he will be able to make the turning radius to the drive-thru after closing Woodrow, he responded he hadn't been able to put the numbers to it as of yet. He further responded he may need to encroach on the City right-of-way to allow the turn.

Case No. 17335 (continued)

Mr. Bolzle inquired if he wanted the Board to continue the application so he can review his site plan, Mr. Parker agreed he is concerned about the turn radius and may need additional time to review his site plan.

Ms. Abbott pointed out the applicant has additional parking spaces that are not required, and he could use the space for his turn radius.

Mr. White asked if the Board could restrict the items listed by Mr. Midget and require final approval of his site plan.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Variance** to permit 15 of the required parking spaces 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** ; subject to the following agreed-upon conditions that were provided by Mr. Midget and the applicant (Exhibit D-1). 1.) Vehicular access to the development site be closed to the north along Woodrow Street in order to prevent commercial traffic from flowing into the residential area; 2.) The development project shall be screened from view along the property line adjacent to the residential property to the east and north of the development site, screening should also be provided along the south boundary line adjacent to the existing commercial property; 3.) Screening should be designed to help enhance the visual character of the neighborhood and buffer certain adverse effects associated with commercial property that abuts residential property; 4.) Adequate lighting shall be provided on the development site, but the height and location of light should not adversely impact residential property adjacent to the site; 5.) Hours of operation shall be between 7:00 a.m. to 11:00 p.m.; 6.) Include as much landscaping as possible and **CONTINUE** a **Variance** to permit expansion of a nonconforming structure to add a drive-thru on the north side of the building **SECTION 1405.A. STRUCTURAL NONCONFORMITIES** - Use Unit 12, to April 23, 1996, to allow the applicant to correct his site plan if required; finding the use per conditions to be compatible with the area and in harmony with the spirit and intent of the Code; on the following property:

Lot 6 & 15, Block 8 and Lot 6-15, Block 9, Meadowvale Addition Resub. and Lot 13, Block 1, Acre Gardens, City of Tulsa, Tulsa County, Oklahoma

## NEW APPLICATIONS

### Case No. 17329

#### Action Requested:

Special Exception to permit office use in a RM-2-zoned district with a .50 floor area ratio. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**  
- Use Unit 11, located East of NE/c 66th Street and South Riverside Drive.

#### Presentation:

The applicant, **Charles Jenneman**, 203 Sunset Drive, requested a Special Exception to permit office use in an RM-2-zoned district.

#### Comments and Questions:

Mr. Gardner informed the Board that the property to the west is zoned OM and the applicant wants to use the property in that fashion. He further stated the area has too many apartments and anything this Board could do to change the use would be encouraged.

In response to Mr. Bolzle, Mr Gardner stated that an RM-2-zoned district under special conditions can be treated as an OM zone, and the applicant can build a structure up to two (2) stories.

#### Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a Special Exception to permit office use in a RM-2-zoned district with a maximum .50 floor area ratio. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11; subject to submission of a final site plan; finding the use per conditions to be compatible with area and in harmony with the spirit and intent of the Code; on the following property:

Part of Lot 2, Block 1, Riverbank Plaza Addition, City of Tulsa, Tulsa County, Oklahoma described as follows: Beginning at the SE/c said Lot 2; thence N88°50'59"W for 338.92'; thence N20°22'23"W for 28.37'; thence due N for 167.60'; thence S88°50'59"E for 348.80'; thence due S for 194.00' to POB.

## **Case No. 17340**

### **Action Requested:**

Special Exception to permit a home occupation (beauty salon) in an RS-1 zoned district. **SECTION 402.A. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 8164 East 17th Street.

### **Presentation:**

The applicant, **Lottie June Friese**, represented by John Friese, 8164 E. 17th Street, submitted a Code Enforcement Letter (Exhibit E-1) and requested a special exception for a home beauty salon.

### **Comments and Questions:**

Ms. Turnbo asked the applicant the hours of operation for the beauty salon, the applicant stated the hours will be 9:00 a.m. to 5:00 p.m., Monday through Saturday, by appointment only and one customer at a time.

Ms. Abbott inquired if he had off-street parking. He indicated he did and submitted photographs (Exhibit E-2).

Mr. Bolzle asked Mr. Friese if he had read the home occupation guidelines, he responded that he had not.

Mr. Bolzle informed the applicant that the home occupation guidelines provide that there can be no outside employees, Mr. Friese commented he knew there could be no other employees and that his wife will be the only one working in the business.

### **Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a home occupation (beauty salon) in an RS-1 zoned district. **SECTION 402.A. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; subject to limitations: operating hours to be 9:00 a.m. to 5:00 p.m.; Monday through Saturday, one customer at a time with appointment only; finding approval of request will not be detrimental to the neighborhood or violate the spirit or intent of the Code; on the following described property:

E 86.25', N 175', W 172.5', E 622.5', N/2, Block 8, O'Conner Park  
Addition, City of Tulsa, Tulsa County, Oklahoma

**Case No. 17341**

**Action Requested:**

Special Exception to permit a Community Group Home for up to 10 resident elderly or disabled persons in an RS-1 zoned district. - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 8, located 8160 East 16th Street.

**Presentation:**

The applicant, **Joyce C. Carter**, 8160 East 16th Street, submitted a plot plan (Exhibit F-1) and requested permission to increase the number of residents in her residential care home for the elderly from six (6) to ten (10).

**Comments and Questions:**

Mr. White asked the applicant if there will be plenty of parking, the applicant indicated the house sets on 1 1/4 acre and there is plenty of parking.

In response to Mr. Bolzle, the applicant indicated she has been in business for two years with six (6) residents.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a Community Group Home for up to 10 resident elderly or disabled persons in an RS-1 zoned district. - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 8; approved per plot plan; finding the approval of request will not be detrimental to the neighborhood or violate the spirit and intent of the Code; on the following described property:

W 145', N/2, Lot 2, Block 4, O'Conner Park Addition, City of Tulsa,  
Tulsa County, Oklahoma

## **Case No. 17342**

### **Action Requested:**

Variance to permit 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 14, located 2255 East 7th Street and 650 South Lewis Avenue.

### **Presentation:**

The applicant, **Leo Burgard**, 253 North Columbia Avenue, submitted photographs (Exhibit G-1), and petitions from neighbors in favor of this request (Exhibit G-3). He stated when he was given his occupancy permit he was told he had adequate parking. He further stated recently he was told he needed five (5) parking spaces on lot 29. He explained he met with the inspector and was told lot 29 would be adequate for the required parking, but the empty building on the lot would have to be removed then he could pave the lot, which would give him the five (5) spaces. He further stated he had a contractor estimate the cost for paving and the contractor informed him the breezeway would have to be taken out as well, and this would be a hardship for him. He suggested he could pave his vacant lot 30 and use it for the five (5) parking spaces required and this would eliminate the cost of removing the empty building and breezeway on lot 29 and it would also enable the delivery trucks using Lewis Avenue to enter lot 30 for unloading.

### **Interested Parties:**

Eddie Brand, 235 South Pittsburgh, he stated he sold Mr. Burgard the lots. He further stated he spent \$5,000.00 cleaning the lots up before selling to Mr. Burgard. He stated the Burgards are kind and gentle people who are only trying to make a living and didn't deserve the harassment they receive from the neighborhood. He requested the Board to approve the applicant's request.



**Protestants:**

Allen Stewart, District 4 Planning Chair, stated the residents of the area have given him permission to represent their views and he resides in the area where the applicant's business is located. He further stated the operations occurring at this site are very similar to a janitorial service and not a retail store. He explained that very large delivery trucks unload in the middle of the street and store supplies in the house and garage. He further explained that periodically large number of employees come every payday and for meetings and fill up the residential street with their parking. He submitted photographs of trucks making deliveries (Exhibit G-1) and stated the trucks are parking in the middle of the street, blocking the entire street. Mr. Stewart stated the residents request this application be denied unless three conditions are met: 1.) A barrier be constructed across all the south entrances and exits to 7th Street to discourage delivery traffic and employee parking; 2.) A sufficient portion of the adjoining lot paved with an entrance and exit to Lewis Avenue for delivery trucks without off-loading on residential streets; 3.) A paved access between the adjoining lot and the business facility be provided to allow delivery without encroachment onto the residential streets. Mr. Stewart further stated this type of traffic is not conducive to a residential environment and this is why the Mayor's Office became involved. Mr. Stewart asked the Board to deny this request until Mr. Burgard presents an enforceable lot plan that will alleviate the problems that he is causing for the neighbors.

**Comments and Questions:**

Mr. White asked Mr. Stewart if the request for no entrance on 7th Street is for vehicles only or pedestrian traffic as well, he responded he wouldn't have a problem with pedestrian traffic.

**Applicant's Rebuttal:**

The applicant, Leo Burgard, stated that Mr. Stewart's allegations were out-right lies and it is unfortunate. Mr. Burgard submitted a delivery record log starting February 1, 1996, to the present (Exhibit G-2), and he pointed out he gets three trucks a month for deliveries. He explained the business is a janitorial supply company and they may have three customers walk in a week. He further explained his customers are nursing homes, hotels and motels who call their orders and then he delivers to their locations. Mr. Burgard stated lot 30 will be fully paved so that the delivery trucks can come onto the lot from Lewis Avenue, unload and exit on 7th Street.

**Additional Comments:**

Mr. White asked Mr. Burgard if the suggestions Mr. Stewart made, apparently coming from the Mayor's Office, about eliminating any vehicular entrance and deliveries made off 7th Street, will cause a hardship for his business. He responded it would not be a problem because he intends to come off Lewis Avenue but the trucks may have to exit off 7th Street. He further stated he has three deliveries a month, maybe three customers a month and if this does not go through he intends to sell to a used car lot.

Ms. Turnbo stated, for the record, a petition with 17 names supporting this application from the 7th Street area has been submitted to the Board.

Ms. Abbott asked the applicant if the Lewis entrance had a curb cut, the applicant responded there is already one curb cut on Lewis and the other curb cut is on 7th Street.

In response to Ms. Abbott, the applicant confirmed that the trucks would enter on Lewis Avenue and exit on 7th.

Ms. Abbott asked the applicant if he had seen the pictures of the trucks submitted by one of the protestants, he responded he had not seen any pictures.

Ms. Parnell asked Ms. Abbott if the pictures were dated, she answered negatively.

Mr. Burgard explained the pictures are taken over a nine-month period. He further explained Maria Barnes, a resident on 7th Street, takes a picture every time a truck comes in.

Case No. 17342 (continued)

Ms. Parnell stated that this property came before the Board in 1987 and was denied. She stated the Burgards asked about a janitorial sales facility and they were instructed to apply for a zoning clearance permit, provide the zoning officer with a site plan and she would make that determination. She further stated the Burgards met all the requirements and Paula Hubbard approved and released the zoning occupancy permit due to their site plan, which shows this structure was approximately 80% storage and 20% open area for customers. Ms. Parnell stated she went to the site and verified the site plan for Ms. Hubbard. She explained that some of the neighbors frequently called Jeannie McDaniel at the Mayor's Office about the trucks. Ms. Parnell explained she pointed out to the Mayor's Office this is zoned CS, they have a valid zoning occupancy permit and there is nothing to be done about a truck using the street to unload. Ms. Parnell further explained that in 1987 parking wasn't a requirement because the only employees were Mr. and Mrs. Burgard and 80% of the building was storage. She confirmed this property is zoned CS and will always be zoned CS and the Burgards have a valid permit and she is not sure they need the five (5) parking spaces.

Mr. Gardner informed the Board the only time parking would become an issue is if the use changed to another Use Unit. If a business is nonconforming as to parking and the use changes to another use unit, then the parking issue will come up. Apparently this is the situation, and he is properly before the Board to use the lot to meet his off-street parking requirements. If the Board approved the parking to be on the lot next to Lewis with a tie contract, then they could be treated as one lot rather than two lots and Mr. Burgard wouldn't need any other relief from the Board.

In response to Mr. Gardner, the applicant explained the use has never changed, it was a janitorial supply store when he applied for his occupancy permit and it is still a janitorial supply store, the inspector told him it was an oversight and that he needed the parking spaces now.

Ms. Abbott asked if the Board should be ruling on whether he paves the entire lot or ruling on the variance to permit 5 spaces, Mr. Beach responded the only issue before the Board is to allow the 5 spaces on another lot and as Mr. Gardner pointed out the Board could require the tie contract, which would effectively tie the two lots together and it is clear in the Code that it has to be paved.

Case No. 17342 (continued)

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Variance** to permit 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 14; subject to the execution of a tie contract of lots 29 and 30; finding the use per conditions to be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

Lots 29 & 30, Block 5, Hillcrest Addition, City of Tulsa, Tulsa County,  
Oklahoma

**Case No. 17343**

**Action Requested:**

Special Exception to permit a mini-storage in an OL district. **SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 16, located 2905 North Lewis Avenue.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Box, Bolzle, Turnbo, White, "aye"; no "nays"; no "abstentions"; no, "absent") to **CONTINUE** to April 23, 1996, to allow time for additional advertising.

**Case No. 17344**

**Action Requested:**

Special Exception to permit a Residential Treatment Center in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, located SW/c East 36th Street North and Cincinnati Avenue.

**Presentation:**

The applicant, **Robert Johnson**, represented by Jeff Nix, 6109 West 29th Street North, submitted a site plan (Exhibit I-1), lay out plan (Exhibit I-2), plot plan (Exhibit I-5) and stated this project is a proposed residential care facility for women with children to be treated for substance abuse. He further stated this is not another social service agency, it is an in-patient residential center and is comparable to Laureate, Shadow Mountain, Tulsa Regional, St. John Medical Center. He explained the residential treatment center is not an in-and-out daycare center, drug treatment center. He further explained individuals enter voluntarily and the treatment program last between 90 to 120 days. He stated during the first 30 days there is no visitation and during the next 30 days there will be weekend visitation and during the last phase of the treatment the individual residents actually will go out into the community on weekends looking for work, school, etc. He further stated the reason this facility was devised is many women with children are afraid to seek drug counseling because they may lose their children through DHS. He explained it is an apartment with 30 units. He stated the building is secured against entry from the outside and it is not a lock-down facility or a correctional facility. He further stated the doors are locked against people coming in and there is security on the premises. He explained there is no curfew for the residents because they are not leaving the building. He further explained the patients will come from the local community, although anyone is eligible to commit themselves for treatment. He informed the Board the operation features about 98% private referrals. He commented the operators have been in the drug treatment business for approximately seven (7) years. Mr. Nix explained he has an affinity for the north side. He further explained he produces the Greenwood Jazz Festival every year and it brings some 100 to 150 thousand people to the north side. He stated it is not in his makeup to try to dump something on the north side where it isn't wanted. He further stated it is a nice-looking building, it occupies 20,000 square feet. He stated the 1 1/2 acres is on a four (4) acre tract in the middle of 20 acres where the owner retains the remaining 16 acres. He explained an owner will not sell four (4) acres if he thought he was destroying the property value of his remaining 16 acres. He further explained the property is currently undeveloped and will look better after this project is completed. He confirmed the facility will create 45 jobs. Mr. Nix read a letter from Senator Penny Williams (Exhibit I-3) in support of the facility. He stated the applicants are asking for 1 1/2 acre to rebuild and save lives of women who are desperately in need of treatment.

**Interested Parties:**

Robert Johnson, 1244 East 24th Street, developer of this project, submitted a site plan (Exhibit I-1). He stated there is a grade change, and the reason this location was picked is because the topography is such that there is about a 20' change between the lower part and the upper part of the lot. For commercial to expand into this area they would have to do some major dirt work. He stated the sewer line is located on the backsides of lots 1,2 and 3 and there is a manhole that will require a mainline sewer extension. He further stated a 6" waterline is on the project side of Cincinnati and gas and electric are available. He explained this is an in-patient facility with 30 rooms and 60 beds, daycare center, dining room, four (4) class rooms, numerous nurseries and an entry with a reception area.

Laura Gilreath, Executive Director of Treatment Program, Route 3, Box 14, Mannford, stated the facility has been in operation for two years at 12th and Main. She asserted the facility has never experienced violence or any kind of problem with the facility being a hangout for drug dealers. She explained staff is available 24 hours, seven (7) days a week and the doors are locked at all time for the safety and security of the residents, women and their children. She stated there is little coming and going at the facility and it is a 120-day program. She stated that 50% of the residents come from the north side community and the other 50% have come from other areas of the city and state. She further stated the facility is not a correctional facility and is strictly a voluntary program. She explained the facility strongly believes in keeping the family together and treating the family as a unit instead of separating the mother and putting the children in foster care. She requested this application be granted to build a better facility for their residents and their children. She stated the idea of the program is to break the cycle of addiction and we believe the only way to do that is to include the children and the moms, working on parenting and bonding issues as well as working on the addictions.

Chris McCoy, Facility Director, stated she is representing the mothers and children of the facility. She stated the facility is not a detox center. She stated that the nursery would only be for the mothers and children of the facility, not employees. She further stated the residents are multi-cultural and the population is 65% children ranging from infants to 12 years of age. She explained the mothers are very concerned about where their children will be during their treatment and that is the reason they come to this facility. She further explained that during the first three and four-month period the children become secure for the first time in their lives and there is some hope for the families. She read quotes from mothers and children of the facility.

Case No. 17344 (continued)

Bobby Scott, client of First Wings of Freedom, stated she is a recovering alcoholic. She further stated she was looking for help for herself and her children, and First Wings of Freedom gave this to her. She explained that the facility was able to help her and her children with compassion and security. She further explained that she has received the help that she needed to take control of her alcohol addiction. Ms. Scott stated the program has helped her become an asset to her community. She further stated that when she stole in the past, she took for her children, diaper money, food money, bill money. She explained she never went into another person's home to steal and, she never robbed a liquor store.

Paulette Liston, former client, stated she completed the 12-step program last week. She further stated that her son had been in DHS custody for the last two years and through First Wings of Freedom, she has been able to get him back in her full custody. She explained she is in the program because of her problems with drugs. She addressed the neighbors' concerns about the crime rate increasing because of the facility being located in their neighborhood and explained the treatment center is helping not to learn better ways to steal or commit crimes. She further explained that when mothers are not in treatment they are spending time with their children, showing them the right path to take so that they will not make the same mistakes. She explained if she had not entered the program she would still be closed-minded on the streets, with a needle stuck in her arm and her son in someone else's custody. She explained they are not asking to move a prison near the neighborhood. She expressed by receiving a new building they will be getting a better structure for their children and residents to live in. She explained her future goal in life is to be an adolescent psychologist, but she will be a recovering addict adolescent psychologist. She stated she has learned to be a part of society through this program.

**Protestants:**

Maxine Johnson, Planning Chair District 25, 345 East 36th Place North, stated the residents in and around 36th Street and North Cincinnati strenuously object to the location of any type of business other than a commercial business. She further stated the neighborhood asked for a Walmart and they are offered a residential facility instead. She expressed the neighborhood's request for commercial business that will improve and enhance the progress and prosperity of their community. She further expressed residents do not feel the mental health residential facility at this site will be in their best interest. She submitted a petition from the neighborhood against this application (Exhibit I-4). She explained the community of North Tulsa needed a tax base and the community is asking to place the facility in a community that can afford it. She further explained the community needed jobs for the residents and youth so that maybe they wouldn't have to go to other facilities. She requested the Board to deny this application.

Case No. 17344 (continued)

Lacretia Jackson, 315 East 36th Place North, stated she is against the location, not the facility. She expressed North Tulsa has been unfairly stigmatized by lack of economic development. She further expressed concerns of the facility being too close to residential areas.

Joe Williams, City Council District 1, stated Representative Penny Williams does not live in the District. He read a letter from Senator Horner who expressed concerns of another social service in the Senate District 11 and strongly opposed another social service placed in the district. Mr. Williams read a letter from Representative Ross who also expressed concerns of another social service placed in the area. He explained that the community has done its part in supporting social services. Mr. Williams stated he has received numerous phone calls and letters from his district against this application. He further stated the issue is not about having compassion for people who have problems. He further explained the issue is about fairness and equity to the community. He pointed out the following social services located in District #1: Juvenile Detention Center, Girls Home, DVIS, substance abuse center located on Cincinnati and across the street a mental health center, drug rehabilitation center on 36th Street, another substance abuse center on Lewis. He questioned how many social services his community will have to absorb and is concerned with the impact on the neighborhoods. He stated the City of Tulsa promised to develop the city equally and the north side of Tulsa is still waiting. He further stated the City of Tulsa has spent millions of dollars to extend the Osage Expressway and widen Peoria Street and the vision he has for access off the Osage Expressway on the most crucial, prime corner for job development and the future of the community is not a treatment center. He summarized that the north side of Tulsa has done its share and they want to see the promises made by the City of Tulsa fulfilled. He stated the First Wings of Freedom has a good program and he hopes things go well for the program, but he feels this facility's impact on the community will be harmful and they should choose another location.

**The Following Protestants reiterated the similar concerns as stated above:**

Veretta Carver, 1735 E. 50th Pl. North

Reverend Easley, 1710 South 90th East Avenue

Jack Henderson, 2014 N. Rosedale

Johnny Asberry, 2726 N. Main Street

Reverend William J. Johnson, 2802 East Lewis Avenue

Roscoe Turner, 3415 East Haskell

Dwain Midget, 324 East Zion Street



**The following Protestants signed the Oppose Form:**

Reverend Earl Tothress, 2253 N. Columbia Avenue  
Reverend A.D. Phillips, 1439 N. Frankfort Avenue  
Laurence Waters, 3232 N. Garrison  
Donald Starr, 6307 North Boulder  
Dorothy Gatewood, 6307 North Boulder  
Jimmie R. Pryor, 4727 N. Birmingham  
S. Smith, 4731 N. Birmingham  
Peaches Curl, 645 East 26th Place North  
Gussie Jennings, 5627 North Frankfort Place  
Tara Turney, 2712 North Boulder  
Mary Loupe, 2439 North Urbana  
Bill Thomas, 1331 North Boston Avenue  
Viever Walton, 1210 North Tacoma Place  
Doris Crawford, 2846 North Iroquois Avenue  
Richard Brown, 1102 East 26th Place North  
L. Robinson, 1733 West Independence  
Larry Horton, 1504 North Elgin Avenue  
Calvin Fennell, 1553 East 53rd Street North  
Derek Gates, 2216 North Osage Avenue  
Pearl Anderson, 1306 North Cheyenne

**Applicant's Rebuttal:**

The representative, Mr. Jeff Nix, stated that nobody disputes that commercial growth would benefit the north side of Tulsa. He pointed out Northland was built as a commercial shopping center (now known as Panorama Center) with a J.C. Penny's, Froug's, clothing stores and it failed. In response to the protestants' questioning why there is no Walmart in the area, he stated did not know why there wasn't commercial development in North Tulsa. He stated there is a lot of raw land in the area and no one has developed it. He further stated the tract he is proposing is a thicket. He agrees the facility proposed is not going to create a tax base or hundreds of jobs, but it is going to improve the raw land where this facility is proposed. He commented he did not see the wisdom of turning down a dime hoping that you will receive a dollar or a hundred dollars. He reiterated the building will be the size of 1 1/2 acres surrounded by hundreds of available acres for commercial development. He explained the small development proposed will create 45 jobs. He further explained the proposal meets with all the legal requirements, conforms with the Code, conforms with the District 25 Plan and meets with all the legal requirements. He stated a personal dislike for a project does not appear anywhere in the Code. He further stated he believes the project has met with all the legal requirements to grant the exception.

**Additional Comments:**

Ms. Abbott asked Mr. Nix why the facility sets in the middle of the land area and the subject request involves the south four (4) to five (5) acres of a 20-acre site. He responded the tract needs 150' frontage on Cincinnati Avenue and there are 14 to 16 acres to the north for commercial development.

Ms. Box questioned the applicant about the number of jobs created and where they will be hired from, he responded approximately 45 jobs will be created and many of those would be hired from the immediate area.

Ms. Abbott commented that the street plan for the north part of the City of Tulsa, from the river all the way to 129th East Avenue, only two major north-south thoroughfares that open up to major highways. She further commented Memorial Street developed primarily because of the major highway system going through the City, and the only street like Memorial from the river to 129th is Cincinnati Avenue. She explained Cincinnati Avenue is the only street that has the street system to support commercial development and for this reason she is not in favor of this Special Exception.

Mr. Bolzle expressed his concerns about the amount of concentration of the social services in the area. He stated he disagreed with the applicant regarding its legal right to be here. He further stated the proposal has a right to be granted if the Board says it does and the court affirms it. He stated he has no way of knowing or proving that there is in fact a concentration of uses here. He pointed out that the exhibit by the applicant indicates there is not. He further pointed out it does not address all of the treatment centers in Tulsa, only the ones the applicant feels are like or similar to theirs. Mr. Bolzle pointed out similar situations in other areas of the City where commercial growth has developed in and around social services. He expressed the need for the Staff to prepare a study map from their resources as to what are comparable uses and what other treatment or Use Unit 2 uses have been approved for the entire City so the Board can look at whether or not there is a concentration of social services.

Ms. Turnbo agreed with Mr. Bolzle and stated she drove around the area and thought it would be a good location. She further stated the Board did turn down a residential treatment center on 26th Street off North Cincinnati because it was inside a neighborhood and would be injurious to the neighborhood. She explained that she also lives in an area where social services have been clustered and knows of the problems that it can create. Ms. Turnbo also requested the Staff to do a study on the location of social services and similar facilities before voting on this proposal.

Case No. 17344 (continued)

Mr. White asked the Staff if they could have a study ready in two weeks, Mr. Gardner responded it would take quite some time to pull all this information together because not all of the facilities are of public record. He stated a comprehensive study is needed to evaluate future applications before this Board and it may need to be a work item for the Planning Commission in this coming physical year. Mr. Gardner further stated, however, the Staff would survey the social services and locate these facilities on a map in time for the continued hearing.

Mr. Gardner informed the Board unless they are ready to make a decision today they will have to continue to a date certain. He further informed the Board if three members of the Board have the same opinion, then three can make the determination and there will be no need to continue this request.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 1-4-0 (Abbott, "aye"; Bolzle, Box, Turnbo White "nays"; no "abstentions"; no "absent") to **DENY** a **Special Exception** to permit a Residential Treatment Center in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2; Motion failed.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** the request for a **Special Exception** to permit a Residential Treatment Center in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2; finding the Board needed further information and discussion concerning the cluster of similar social services in the City.

**Additional Comments:**

Ms. Abbott stated if the Board requested the Planning Commission to do a comprehensive study of all social service agencies in the City and their locations, this will need to be continued for several months.

In response to Ms. Abbott, Mr. Bolzle stated he would be pleased with just a listing of the public social services available and plot them on a map.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** Case No. 17344 to April 23, 1996, to allow the Staff time to assemble the additional factual information that has been requested by the Board.

## **Case No. 17345**

### **Action Requested:**

Special Exception to permit a school for preschool children, ages three and four and for kindergarten through eighth grade in a RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS;** Variance to reduce the required building front yard on South College Avenue from 25' to 10' from the property line for a part of the building and from 2' to 15' from the property line for a part of the building. **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS,** Variance to reduce the required north side yard from 25' to 12'. **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a Variance to remove the off-street parking and loading requirements. **SECTION 1202.D. Use Unit 2. AREA WIDE SPECIAL EXCEPTION USES;** Off-street Parking and Loading Requirements and Variance to reduce the required landscaped area abutting South College Avenue and South Evanston Avenue from 5' to 0' for a part of the street frontages. **SECTION 1002.A.2. LANDSCAPE REQUIREMENTS -** Use Unit 2, located between South College Avenue and South Evanston Avenue and between East 3rd Street and East 4th Place.

### **Presentation:**

The applicant, **Charles E. Norman**, representing the University of Tulsa, 2900 Mid-Continent Tower, requested approval of the Board for the construction of the new university school. He stated the plan is for a maximum of 200 students from pre-school through the eighth grade. He further stated this school will be a resource center for educational techniques in teaching gifted children and is a practicum for graduate programs at the University in Education. He explained the University Master Plan was prepared and submitted as part of the Comprehensive Plan of the City in 1987. He further explained It was subsequently made a part of the Kendall/Whittier Neighborhood Plan, approved by the Planning Commission and the City Council in 1991 as part of the Comprehensive Plan. He stated it was updated in 1994, and became a part of the Tulsa Development Authority Urban Renewal Project Plan for the Kendall/Whittier neighborhood. He stated in 1993 the Board approved the location of the Child Development Center at the corner of 3rd Street and Evanston Avenue and this occupies about a third of the block in which the school itself is to be located. He pointed out pursuant to the Comprehensive Plan the Board approved in 1995, the northwest housing project in the northwest corner of the campus per the submitted site plan (Exhibit J-6). He requested a special exception to permit the school use in Use Unit 2 in an RS-3 zoned-district. He submitted a University of Tulsa Master Plan (Exhibit J-4), legal description (Exhibit J-5), photographs of three vacant houses which are in the process of being removed (Exhibit J-1), letter from the University of Tulsa (J-3). He further requested a variance to reduce required building front yard on South College Avenue of 25' to 10' to the property line for a part of the building and from 25' to 15' to the property line for a part of the building to include two covered entrances. Mr. Norman also requested a variance to reduce the required

side yard from 25' to 12' on the lot line adjacent to land the University already owns. He further requested a variance to remove the off-street parking requirement associated with this building and a variance of the provisions of the landscaping chapter to reduce the amount of landscaping required on the east side of the building because under the new landscape Code, open space has to be grass and can no longer be paved, tiled or plazas. He explained the east side of the building area is walkways and beds for planting trees and shrubs. He explained the off-street parking requirement for this building will be 26 on-site parking spaces. He further explained that under the current zoning code the University of Tulsa will be required to have 1,100 on-site parking spaces based on the number of dormitory beds and the number of square feet of classroom space. He informed the Board that the University currently has 2,984 off-street spaces and an approximately 100 or more located on vacated streets that are now owned by the City. He further informed the Board that in 1960, Skelly Stadium was expanded to its present capacity and is a non-conforming use; therefore it is not required to meet the parking requirement and not included in the count. Mr. Norman stated that the University has a surplus of approximately 2,000 parking spaces, more than the zoning code requires and he is asking for the approval of the variance to allow the off-site campus parking spaces to meet the need generated by this facility for 26 spaces. He further stated the University will be submitting a final parking study in May, which will become the base for future applications to enable the Board to keep track of the supply of off-street parking.

**Protestants:**

Warren Morris, representing homeowners, submitted photographs (Exhibit J-1), and stated there is no question that the University is a great asset to the community. He further stated Mrs. Mercer lives in a house within a mile of the area and because of the influence of the University's plan, her home value has declined. He explained the houses facing a major street or into commercial property generally sell from 15 to 20% below the value. He stated the plan the University has set forth will eventually reduce the value of Mrs. Mercer's home even more. He further stated the University asked for a variance on landscaping and he objects to this request. He informed the Board the University's plan for the future is a good plan, except it affects the neighbors across the street and costs the homeowners money by damaging their property. He requested the plan be denied. He further requested the Board to give the neighbors a break on the setbacks if they do approve this plan. He also requested the Board to require more landscaping instead of less as requested.

Margaret Mercer, 327 South College, stated the buildings the University has proposed will be in front of her property and the University has requested to move it 12 1/2' closer to her and she feels this is too close.

Case No. 17345 (continued)

Captola Thomas, 3016 East 2nd, stated she objects to the variances of the setback. She further stated if the University will leave it at 25' it will be the same amount of space on the west side as the houses on the east side are setback from the street. She requested the variance for landscaping to be denied.

**Applicant's Rebuttal:**

The applicant, Mr. Norman, stated he sent out invitations to the neighbors to explain the University's plan and no one showed up. Mr. Norman stated one of the things that make the setback issue much softer is the right-of-way for College Avenue is 80' wide at this particular location. He explained this gives greater distance between the properties than on most residential streets. He further explained the building is stepped down on the west side of College between 3' and 4' so the building is being sunken into the ground on the west side. He stated the architects have striven to keep this building at a low profile out of concern and regard for the homes across the street. He further stated the building has a hip roof and the building on the lower grade is 21' to the eaves and then the roof slopes to the west, farther away from the properties on the east side of the street. He explained the landscaping is much more dense and much more extensive than required by the Code. The only exception is the 2' or 3' of grass in front of the building for 100'. Mr. Norman stated the landscaping plan follows the University Master Plan. He stated he did not agree with Mr. Warren Morris that the child development center and the new structure will diminish the value of the properties in the neighborhood.

**Comments and Questions:**

Mr. Bolzle asked the applicant what the reason was for varying the front yard from 25' to 10', he responded the building frontage meets the guidelines, the variance is only for the two entrances and a covered open porch.

Mr. Bolzle responded that this explains the reason for variance but it did not explain the hardship, Mr. Norman responded that obviously the building could be moved but it will reduce the area inside and takes away the play areas for the children.

In response to Bolzle, the applicant stated the school will be for preschool to the eighth grade.

Mr. Bolzle asked the applicant if there will be drop-off traffic on College, he responded the drop-off is designed to work from both streets, the younger children will come to the school between 8:30 a.m. and 8:45 a.m. and the older children will be coming in at 8:30 a.m. He further responded the drop-off activity occurs in a 30-minute period of time, and the pickup will be on the same basis. He explained there will be drop-off lanes on both sides of the building.

Case No. 17345 (continued)

Mr. Bolzle asked the applicant why the building was oriented to College and not to Evanston, he responded there were utility easement problems on the site.

Pat Hollingsworth, Director of School, stated the drop-off on College will generally be about 15 minutes, and 15 minutes later another drop-off on Evanston. She stated the University divided it equally to prevent either street from receiving an abundance of traffic. She explained the primary purpose for the variance on the setback is for the entrances at the drop-off so the children will not get wet as they are coming into the classrooms. She further explained the main building structure is within the required setback.

Mr. White stated the 80' width on College (30' wider than most residential streets) justifies the two entrances being projected out closer to the street in his opinion.

Ms. Turnbo stated the proposal is consistent with the past variances granted and does conform to the University Master Plan, which has been approved.

**Board Action:**

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a school for preschool children, ages three and four and for kindergarten through eighth grade in a RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS;** a **Variance** to reduce the required building front yard on South College Avenue from 25' to 10' from the property line for a part of the building and from 2' to 15' from the property line for a part of the building. **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a **Variance** to reduce the required north side yard from 25' to 12'. **SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a **Variance** to remove the off-street parking and loading requirements. **SECTION 1202.D. Use Unit 2. AREA WIDE SPECIAL EXCEPTION USES,** Off-street Parking and Loading Requirements, and **Variance** to reduce the required landscaped area abutting South College Avenue and South Evanston Avenue from 5' to 0' for a part of the street frontages. **SECTION 1002.A.2. LANDSCAPE REQUIREMENTS -** Use Unit 2, per plans submitted; finding the request in compliance with the University of Tulsa's Master Plan; finding the over all landscaping and the over all parking exceeds requirements and finding the approval of the request will not be detrimental to the neighborhood or violate the spirit or intent of the Code; on the following described property:

Case No. 17345 (continued)

All of Lots 2, 3, 4 and 5, Block 9, and that part of the vacated alleyway and existing alleyway which lies between Lots 2, 3, and 4 and Lots 5, 6, and 7, Block 9, all in Pleasant View Addition, City of Tulsa, Tulsa County, Oklahoma and also Lots 32 and 33, Block 1, College Addition, City of Tulsa, Tulsa County, Oklahoma and that part of the vacated alleyway and existing alleyway which lies between the aforementioned Lot 5, Block 9, Pleasant View Addition and Lots 31, 32 and 33, Block 1, College Addition.

**Case No. 17346**

**Action Requested:**

Special Exception to permit a temporary tent for produce sales for 120 days beginning May 11 and Christmas tree sales from Thanksgiving Day through Christmas Day; both periods of sales to occur in 1996 and 1997. **SECTION 1202.D Use Unit 2. AREA WIDE SPECIAL EXCEPTION USES;** Off-street Parking and Loading Requirements, located 3212 East 91st Street.

**Presentation:**

The applicant, **Mark Rosenburger**, 7724 South Lakewood, submitted a plot plan and requested a temporary tent for produce sales beginning in May and Christmas tree sales from Thanksgiving Day to Christmas Day for two years. He further stated the stand has been in existence since 1991 and nothing has changed.

**Comments and Questions:**

Ms. Turnbo asked the applicant if he had a variance for all-weather surface requirement, he responded he had an all-weather surface variance the last time he appeared before the Board.

Mr. Beach asked the applicant if the last application was in 1994, he responded affirmatively. Mr. Beach informed the Board it is not reflected in the minutes as part of the Board of Adjustment action.

Mr. Rosenberger responded to Mr. Beach that he came before the Board in 1994 on two different locations and the variance for all-weather surface was requested and granted.



Case No. 17346 (continued)

Ms. Turnbo explained there is a problem that the applicant was not advertised for the variance of the all-weather surface requirement, and this may need to be continued to allow for advertising.

The applicant informed the Board it has been a hard-surface-type parking lot for five (5) years with gravel spread over the surface.

Mr. Gardner stated the definition of hard surface is concrete or asphalt.

**Protestants:**

Jack Sharon, Director of Calvary Cemetery, 91st and Harvard, stated the dirt and dust from this lot is a problem during the summer. He further stated the entrances are not hard-surfaced and the traffic creates significant dust problems.

**Applicant's Rebuttal:**

The applicant, Mr. Rosenberger, stated he did not notice a dust problem. He further stated there is more of a dust problem from the field behind his lot. He explained he will try to keep the area wet to keep the dust down.

**Additional Comments:**

Mr. Bolzle asked the applicant if the request is for one year, he responded he requested two years.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a temporary tent for produce sales for 120 days beginning May 11 and Christmas tree sales from Thanksgiving Day through Christmas Day; both periods of sales to occur in 1996 and 1997. **SECTION 1202.D** Use Unit 2; per plan submitted; subject to dates above; subject to the hours of 8 a.m. to 8 p.m.; subject to review by this Board in one (1) year regarding the non-all-weather surface and dust concerns; finding the use to be temporary and approval will be compatible with the area; in harmony with the spirit and intent of the Code; on the following described property:

NE/4, NE/4, NE/4, Sec. 20, T-18-N, R-13-E, Tulsa County, Oklahoma

## **Case No. 17347**

### **Action Requested:**

Special Exception to permit temporary produce and plant sales for 3 consecutive years. **SECTION 302. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT**, Variance of the requested 85' setback from the centerline of South Delaware Avenue. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** and a Variance of the required all-weather surface to permit gravel parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 2, located 9220 South Delaware Avenue.

### **Presentation:**

The applicant, **Mike McLearan**, represented by Roy Johnsen, 201 West 5th, Suite 440, submitted a photograph (Exhibit L-2) and plot plan (Exhibit L-1) and stated no dramatic changes occurred since 1992, when his client applied for and the Board approved a three (3) year Special Exception. He further stated he is basically submitting the same request, except in the previous application there was a split of 150 days to permit Christmas tree sales, and now they are asking for a continuous 150-day period commencing April 15th to include plants, flowers and produce. He explained there is an existing slab where the tent is to be erected. He further explained the City installed an access drive to the lot when Delaware was recently expanded to four (4) lanes. He requested this application to be approved; finding the three (3) year request is reasonable considering the agricultural nature of the immediately surrounding property.

### **Comments and Questions:**

Mr. Bolzle stated it appeared the area has changed dramatically with Delaware widened, the new Jenks bridge, apartments built across the street, the Creek Turnpike and the proposed extension of Riverside Drive which will impact the westerly border of this property.

In response to Mr. Bolzle, the applicant concurred there have been a lot of changes in the area, but given the zoning patterns and the street improvements, the area will likely remain commercial in the vicinity of the this property instead of a single family neighborhood. He further stated as development occurs, this property will likely cease operation. He informed the Board this is a part of a ten (10) acre tract presently farmed and he does not see this use deterring development from occurring.

Case No. 17347 (continued)

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit temporary produce and plant sales for 3 consecutive years. **SECTION 302. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT**, **Variance** of the <sup>required</sup> requested 85' setback from the centerline of South Delaware Avenue. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT** and a **Variance** of the required all-weather surface to permit gravel parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 2; per plan submitted; finding the use to be compatible with the area; in harmony with the spirit and intent of the Code; on the following described property:

S/2 of E. 20 acres of Govt. Lot 1, less the E. 50' x N 290' and 30' x S 370' thereof Sec. 20, T-18-N, R-13-E, Tulsa County, Oklahoma.

**Case No. 17348**

**Action Requested:**

Special Exception to permit a mobile home in an AG zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9, located 4720 North Birmingham Place.

**Presentation:**

The applicant, **Yvonne Carol White**, 5027 North Xanthus Avenue, submitted a plot plan (Exhibit M-1) and requested permission to place a manufactured home on this property. She explained it will be a hardship for her if the variance is not granted because it will deprive her of using this property effectively. She further explained the manufactured home is not made of tin, but is built out of wood with white vinyl siding on the outside, energy efficient, set up on concrete piers and permanently affixed to cement. She addressed the issue of the high cost to build a home versus the cost of a manufactured home, and explained this will be a hardship for her if she is required to build a home on the property she has already purchased. She informed the Board the manufactured home will be worth more in value compared to the houses already in the area. She further informed she has driven between 47th Place and 56th Street North and plotted five (5) mobile homes already in existence in this area (Exhibit M-2). She stated this is not a temporary setup, it will be a permanent home and is not visible from the road. She requested the Board to approve her application.

**Comments and Questions:**

Ms. Turnbo asked the applicant if sanitary sewer is available, she responded affirmatively and stated all utilities are available.

**Protestants:**

Jimmie Lou Pryor, 4727 N. Birmingham Place, stated she doesn't know Mrs. White but she is sorry Ms. White purchased property that is 90% A-zone flood. She submitted a flood map (Exhibit M-5) and stated she didn't know what 10% of land existed that she could put this home on. She stated she was concerned about a mobile home in the neighborhood, since it is a limited-access addition with only one way in and out. She submitted statements from neighbors (Exhibit M-4). She expressed her concerns of the impact this would have in the neighborhood since it is in a floodplain.

**Comments and Questions:**

Mr. Bolzle asked the Staff if the applicant will have to request a permit from the City to place this mobile home on the land, Mr. Gardner answered affirmatively and stated a mobile home will not be permitted in a floodway, which is the eastern area close to the creek, beyond that are areas that will flood called fringe areas and the only way you can build in the area is if you are elevated one foot above the 100 year flood level.

Mr. Bolzle stated there is a portion of the property that appears to be outside the flood fringe, Ms. Pryor agreed and pointed out it would not touch on Birmingham Place and will be on the third lot.

Mr. Bolzle stated he didn't know of any requirement that restricted a driveway in a floodplain area.

Ms. Pryor asked the Board if a mobil home is allowed on agricultural land, Mr. Bolzle responded the Board can approve mobile homes being placed in agricultural areas.

Ms. Pryor expressed concerns this will turn into a trailer park, Mr. Gardner responded only one dwelling unit per lot of record is allowed and this happens to be a 25 acre lot of record. Mr. Gardner further explained part of the 25 acres could be sold, but before a mobile home can be placed on the lot it will have to come before the Board.

**Protestants:**

R.D. Walker, 4731 N. Birmingham, stated he had two concerns, mainly the impact on the floodplain and the possible decrease in value of the property in the area.

Case No. 17348 (continued)

**Applicant's Rebuttal:**

The applicant, Yvonne Carol White, stated she is looking for a nice, clean place to retire and happen to come across this land. She further stated she did go to the Corps of Engineers and the City. She pointed out there is a certain amount of land that is out of the floodplain and that is where she intends to put her manufactured home.

**Additional Comments:**

Ms. Abbott asked the applicant how much of her land is in B or C floodplain, the applicant pointed out on the floodplain map where the land use for her home is, and further indicated it is located out of the A floodplain.

Mr. White stated the floodplain map indicates the area where Ms. White proposes to place her home is clear of the floodplain and the utilities are available.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a mobile home in an AG zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 9, per plan submitted; subject to stormwater management and health department approval; finding the location of the proposed home site is not in a floodplain; finding the special exception will not be injurious to the area or violate the spirit or intent of the Code; on the following described property:

SE SW SW & S/2 SE SW Less beginning SE/c S/2 SE SW W 366.62  
NE 677.42 thence East along North line to NE/c thence South along  
East line to POB, Sec. 8, T-20-N, R-13-E, Tulsa County, Oklahoma

**Case No. 17349**

**Action Requested:**

Special Exception to permit a church and accessory uses including parking in an RM-1 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a Variance of the required side setback from 10' to 6' for an existing church. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located 606 North Denver.

**Presentation:**

The applicant, **Ernest Gray Bass**, represented by Larry Bible, 3253 South 122nd East Avenue, submitted a revised site plan (Exhibit N-2) and photographs of deteriorating retaining wall and stairs the applicant would like to replace (Exhibit N-5). He requested permission to replace the retaining walls and install a drive in the back of the property.

**Interested Parties:**

Bill Packard, 752 North Denver Avenue, stated he lives in Brady Heights, which is a Historic District on the National Register of Historic Places. He stated he is not against the proposal. He further stated he wanted to clarify and seek information, for the record, regarding Denver Avenue north of Fairview. He wanted to know if a City Official had made a determination that Denver Avenue is on the major street plan and if it is a residential collector. He indicated if it is a commercial collector the setback from the front yard will be 65' from the centerline and if it is a residential collector or not on the major street plan, then 55' from the centerline. He stated if a public official has determined that Denver Avenue is not on the Major Street Plan or not as a commercial collector he will want this in the public record. He further stated he didn't think the Board should make a decision on this application until they concur that Denver Avenue north of Fairview is not on the Major Street Plan, or it is only a residential collector. Mr. Packard explained that in the past traffic engineers seem to determine that Denver Avenue is a commercial collector coming out of downtown through to Pine Street. He further explained the heavy commercial traffic is destroying his neighborhood. He pointed out the Comprehensive Plan had been recently revised and updated and called for the through traffic to Denver Avenue to be eliminated or reduced through the use of stop signs or cul-de-sacs. He explained when the neighborhood approached the traffic engineer to request the institution of the above-mentioned procedures they were denied. He further explained if Denver Avenue is a commercial collector then the applicant should be set back 65' from the centerline.

**Comments and Questions:**

Mr. Beach stated the map in the zoning code does not designate whether Denver Avenue is a commercial collector or residential collector.

Mr. Gardner stated Denver Avenue is more than a local street, it is half the right-of-way designated on the plan map plus 25' and if it is commercial collector it is 80' which half of that is 40' plus 25' is 65' from the centerline.

Case No. 17349 (continued)

Mr. Packard stated the neighborhood would prefer the City's position is that Denver Avenue is not a commercial collector.

Mr. Gardner stated the advertisement in the RM-1 district is for sideyards required to be 10' and the applicant has requested a variance for 6' sideyard.

Mr. Bolzle asked the applicant if the front yard faced Denver or Fairview, he responded the front yard is Denver.

Mr. Bolzle asked Mr. Bible if the Church owned both pieces of property, he answered affirmatively.

Mr. Bible pointed out the 6' setback is located on the existing Church property that was built before the revised City Code that requires a 10' setback. He further pointed out that the Church now owns the adjacent lots.

Mr. Bolzle informed the protestant the sideyard variance and special exception requested has nothing to do with the street plan.

In response to Bolzle, the applicant responded he had no problem with a tie contract.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a church and accessory uses including parking in an RM-1 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** of the required side setback from 10' to 6' for an existing church. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to execution of a tie contract for the two lots; finding the use to be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

Lot 10, Block 7, North Tulsa Addition and part of Lot 9, Block 7, North Tulsa Addition described as follows: Beginning at a point on the E. line of said Lot 9, 15.07' N of the SE/c; thence N86°47'36"W for 58.11'; thence N0°21'58"W for 178.39'; thence Easterly along the N line of said Lot 9 for 58.00' to the NE/c said Lot 9; thence S along the E line said Lot 9 for 181.93' to POB and S 65' said Lot 9 and S 65' less N.5 E 18' S 65' Lot 1 and E.58 S 65 Lot 2, Block 7, North Tulsa Addition, City of Tulsa, Tulsa County, Oklahoma

**Case No. 17350**

**Action Requested:**

Special Exception to permit a Transitional Living Center in a CH zoned district.  
**SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, located 523 North Boulder.

**Presentation:**

The applicant, **Gary Davis**, 8522 East 94th Street, submitted a site plan (Exhibit O-3), a parking plan (O-4) and stated in 1995 the facility burned. He further stated the facility was a safe haven for drug addicts, alcoholics and the homeless. He explained the owner of the property is willing to sell this property for the facility and the Tulsa Action Group ("TAG") decided it will be cost worthy to rebuild on the site. He further explained TAG searched for other locations and failed to find an alternative location. He requested re-zoning of the property to allow rebuilding of the facility. He submitted an outline of TAG's program (Exhibit O-1) and stated TAG provides long term living for drug addicts, indigents coming out of treatment centers and other halfway house centers from around the state. He explained the residents of the facility are encouraged to seek employment to pay for their room and become responsible citizens. He further explained the facility will have 24 hour counseling and staff for the residents.

**Comments and Questions:**

Ms. Turnbo asked the applicant the number of clients this facility housed, he responded TAG applied for a 50-bed facility, but with a new design the building will hold 74 clients.

Ms. Turnbo asked Mr. Davis how large the staff will be for 74 clients, he replied 15 to 17 staff members.

Mr. White asked the applicant if this was the same program he had before the fire, he responded affirmatively; however, he will add more staff and intends to become self-supporting instead of depending on the community.



**Protestants:**

Cherokee Pettis, 708 North Cheyenne, President of Brady Heights Neighborhood Association, stated the following social service groups are located within 6 blocks of her neighborhood: John 3:16 Mission, Salvation Army Alcohol and Drug Rehabilitation Center, Day Center for the Homeless, Mother Tucker Ministries, Catholic Charities, The Madonna House, The Migration and Refugee Service. She further stated that within one block there are two centers already established for men recovering from alcohol and drug addiction. She explained the property the TAG group is using is in the University Center of Tulsa ("UCT") acquisition area, which the Tulsa Development Authority ("TDA") has an agreement with UCT to provide 400 acres of land and this property is in the area. She stated since this lot is in the UCT acquisition area and since it is vacant it will be more cost-efficient for TDA to acquire the property in its burned-out state. She further stated in the past the facility had several code enforcement problems. Ms. Pettis pointed out the building burned in June of 1995 and did not have insurance coverage. She commented the building is still standing and until recently the doors were not boarded over. She further commented the windows are unsecured and there is a problem with street people coming and going out of the building. She stated the neighborhood association has held several committee meetings and decided this application should not be approved.

Jim Norton, President of Downtown Tulsa Unlimited ("DTU"), Chairman of Planning District 1, stated the issue is not the quality of the program, but the impact of another social service facility has on downtown in this neighborhood. He further stated the TAG group will be increasing 160 % from 28 clients to 74 clients. He pointed out the following social services are located in this area: The Avalon Facility, the Day Center for the Homeless, The 12 and 12 Facility, Host is expanding in YMCA and a new county jail. He commented the Comprehensive Plan calls for the area south of the inter-dispersal loop to be developed as an Arts and Entertainment District and there has been substantial commercial money invested in this area after the TAG facility burned down. He stated it will not be in the best interest of the property owners and businesses in this area to have this facility rebuilt. He further stated it is not a prudent decision from a planning standpoint nor from a redevelopment standpoint to allow this facility to return. He pointed out the ordinance specifies these types of uses should not be clustered unless the Board of Adjustment determines it is in the best interest of the community for the facilities to be clustered. He explained clustering is defined is within a quarter-mile radius. He quoted Chairman Turnbo from earlier in the meeting, "When these uses are clustered they have a harmful effect on the neighborhood."

W. Douglas Jones, 2102 North Vancouver Avenue, represented Brady Village Association, and stated he is speaking for the Brady Theater, Sharp Development, Mexicali Border, Cain's Ballroom and Little Wings Productions. He explained the group mentioned above has been fighting for a great many years to improve the downtown area and to bring in further economic development in the area. He further stated it will be an extreme setback to allow this applicant to rebuild. He expressed the group mentioned above objects to this application and request it to be denied.

**Interested Parties:**

Delbert Brock, 4th and Main, Board member of TAG, stated the development the protestants discussed is south of the by-pass and this application is north of the by-pass. He further stated the owner of the property offered the property to TAG because the City does not intend to acquire it. He explained this is not a new facility, it has been in existence for a number of years. He requested the application be approved.

Clint Waldon, 2628 East 10th Street, stated he has been a long time Board Member of TAG. He further stated when TAG first moved into the area it was known as "Cuban Corner" and cleaned the area up with the help of the Northeast Labor Council. He explained the community and private sector support TAG. He further explained TAG experienced an unfortunate fire and they did not have insurance due to a renewal mistake in the accounting department. He stated there is an emergency and hardship due to the fact the clients were forced out of treatment due to the fire. He further stated it takes weeks to enroll the clients in other facilities and TAG really met the need of the clients. He detailed the donors of TAG as follows: Larry Shaffer, of Cain's Ballroom, The Mexicali Border Cafe and Nelson Electric. Mr. Waldon requested the Board to approve this application.

**Applicant's Rebuttal:**

The applicant, Gary Davis, stated he has never met Bobbie Cunningham from Urban Development, but his conversations with her in the last three months indicated the acquisition will not happen in the near future. He further stated the quarter-mile ruling programs according to the State of Oklahoma is if Avalon houses Department Corrections inmates, he cannot house correctional inmates within a quarter mile of their facility. He explained TAG clients have held jobs in the businesses mentioned above and TAG encourages their clients to re-enter the main-stream of life. He further explained without the TAG facility it will put a tremendous burden on the community of Tulsa.

Case No. 17350 (continued)

**Additional Comments:**

Mr. Bolzle asked the applicant the size of program before the fire occurred, he responded the facility had capacity for 34 beds, but there were only 28 men living in the facility at the time of the fire.

In response to Bolzle, the applicant responded before the fire TAG's goal was to have a 34-bed capacity.

Mr. Bolzle asked the applicant what changes have taken place to allow the facility to apply for 74 clients, he responded the re-configuration of rooms and hallways will provide more space and keep within the guidelines of the Tulsa Fire Department.

Mr. Bolzle asked the Staff if a fire can be used as a hardship in this case, Mr. Linker, Legal Department, answered affirmatively and asked if the structure was damaged more than 75% of replacement cost.

In response to Mr. Linker, Mr. Gardner stated he did not know if the facility's damage exceeds 75% of replacement cost.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** Case No. 17350 to April 23, 1996; to allow the Staff time to assemble the additional factual information that has been requested by the Board.

**Case No. 17351**

**Action Requested:**

Special Exception to permit a cellular telephone tower in an OL zoned district.  
**SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 4, located 3132 South 108th East Avenue, #A-3.

**Presentation:**

The applicant, **Roy Johnsen**, represented AT&T Wireless Phone Company, submitted site plan (Exhibit P-2), photographs (P-1) and requested permission to install a mono pole-pole tower that measures 100' in height (Exhibit P-3). He requested this Board's approval for the tower installation.

Case No. 17351 (continued)

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to permit a cellular telephone tower in an OL zoned district. **SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 4, per plan submitted, finding the request will not be detrimental to the area or violate the spirit and intent of the Code; on the following described property:

179' of Lot 1, Block 1, Tri-Angle Square, City of Tulsa, Tulsa County, Oklahoma

**Case No. 17364**

**Action Requested:**

Minor Variance of the required side yard from 5' to 4' to permit an addition to an existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 1771 East 14th Place.

**Presentation:**

The applicant, **John Laur**, 1771 East 14th Place, submitted a plat plan (Exhibit Q-1), photographs of the site (Exhibit Q-2) and stated he owned the residence for approximately five (5) years. He further stated the home was built 70 years ago and request permission to build a 300 SF bedroom on a second level to keep the sidewall setback at 5' as required by the Code.

**Interested Parties:**

Barney James, 1767 East 14th Place, stated his residence is immediately west of the applicant and he is in favor of this application.

Case No. 17364 (continued)

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Box, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** a **Minor Variance** of the required side yard from 5' to 4' to permit an addition to an existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS -** Use Unit 6; per plan submitted; finding the use compatible with the area; in harmony with the spirit and intent of the Code; on the following described property:

Lot 39, Block 2, a Subdivision of Part of Block 5, Terrace Drive Addition, City of Tulsa, Tulsa County, Oklahoma

There being no further business, the meeting was adjourned at 6:45 p.m.

Date approved: April 23 1996

Norma Turnbo  
Chair

