

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 710
Tuesday, August 27, 1996, 1 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF PRESENT | OTHERS PRESENT |
|--|----------------|--------------------------------|---|
| Abbott, Chair Bolzle Turnbo White | Box | Gardner Beach Huntsinger | Parnell, Code Enforcement Linker, Legal Department |

The notice and agenda of said meeting were posted in the Office of the City Clerk on Thursday, August 23, 1996, at 4:27 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **TURNBO**, the Board voted 3-0-1 (Bolzle, Turnbo, White, "aye"; no "nays"; Abbott "abstention"; Box "absent") to **CONTINUE** the approval of the minutes of August 13, 1996 (No. 709) to September 10, 1996; finding that the minutes were not mailed to the Board members in time to review.

Comments and Questions:

Mr. Bolzle asked the Staff in the case of the wording probation, what triggers the Board's action, does it then make it incumbent upon the neighborhood to contact Code Enforcement if it is not being operated according to the conditions that were placed upon the approval? Mr. Gardner answered affirmatively. He stated the applicant has not been able to procure the Galapagos tortoises and put them on the land and he cannot get a Federal permit to do so unless the wording is amended to a probationary approval for one year rather than approval for one year. He further explained that since the Board's action is good for three years (an applicant could have three years to do something) he still doesn't have the animals on his land and so the minutes reflect the one year probation period start when he actually receives the animals on his land. He explained the applicant is still only approved for one year and he will have to come back before the Board to seek either permanent or additional time.

Mr. Bolzle asked if a notice would be sent to the applicant or would the applicant be required to reappear before the Board to review the status of the issue? Mr. Gardner stated if the Board approves the changes, whenever the turtles arrive, the applicant has one year and then he must ask for an extension of that period of one year. It is the applicants responsibility to re-apply, but the the Staff and neighborhood would also monitor that time period.

Ms. Abbott asked the Staff how the Board will know when the turtles arrive? Mr. Gardner stated the applicant will receive a copy of these minutes and suggest to him that he informs the Board when he actually receives the turtles. He further stated when the turtles arrive the one year probationary period will start.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** the amendment to the motion of Case No. 17197 for clarification to the minutes of December 12,°1995 (No. 695).

UNFINISHED BUSINESS

Case No. 17467

Action Requested:

Variance to permit a Corridor development's access to be from an arterial street.

SECTION 804. ACCESS REQUIREMENTS - Use Unit 2, located South of the SE/c of 81st and Mingo.

Presentation:

The applicant, **Roy Johnsen**, representing Sterling House, submitted a site plan (Exhibit A-1) and stated Sterling House is proposing development of 3 acres for an assisted living facility containing approximately 37 units. He further stated this property, as well as substantial amount of the surrounding property, was zoned CO corridor district a number of years ago. He explained the zoning Code requires within Corridor districts an internal collector street system and further provides for detailed site plan review. He further explained that Sterling House presented a detailed site plan to the Planning Commission and to the City Commission. The City Council approved the site plan without an internal collector street through the subject property in June of 1996. He detailed that this is a type of application where there have been other development occur within the Corridor that do not warrant the actual construction of the internal collector street as setforth in the ordinance and this is the variance Sterling House is seeking. He indicated the tract is small and there is no particular benefit from an internal collector, nor is there any particular benefit to surrounding property. He stated there are single family plats pending both to the east and the south of the subject property, single family lots will be backing and there will be no place for a collector street to go. He further stated there are no stub-streets.

Case No. 17467 (continued)

Comments and Questions:

Mr. Gardner stated that the property to the east of the subject property is being platted for single family development. Single family housing will surround this tract. He stated there will be 37 units and no place for a commercial collector street to go.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Variance** to permit a Corridor development's access to be from an arterial street. **SECTION 804. ACCESS REQUIREMENTS** - Use Unit 2; per plan submitted; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

The N 250' of the S 277.50' of the W 555.72' of Government Lot 1, Sec. 18, T-18-N, R-14-E, I.M., City of Tulsa, Tulsa County, Oklahoma, said tract contains 3.1894 acres more or less.

NEW APPLICATIONS

Case No. 17469

Action Requested:

Special Exception to permit a Halloween outreach as a temporary Commercial Recreation Facility. **SECTION 1219.B USE UNIT 19. HOTEL, MOTEL AND RECREATION FACILITIES**, located 8117 East 44th Place.

Presentation:

The applicant, **Guts Church/Bill Scheer**, 7727 East 41st Street, submitted a site plan (Exhibit B-1) and stated the plan is the same as last year. He further stated that last year he was advised to get the one year exemption and if everything workout well, then ask for a longer exemption. He requested a three year exemption.

Comments and Questions:

Ms. Turnbo asked the applicant if the event will run from the second week of October till November 15th? He stated because of the large response he would like to start the first week of October to November 15th.

Ms. Abbott asked the applicant if the event went through to November 15th last year? He stated it did not go to November 15th, but he would like to include the extra days if the event needs to be extended.

Case No. 17469 (continued)

Ms. Abbott asked the applicant if he was asking for an exception to start the first Thursday of October through November 15th? He answered affirmatively. He asked if the Board would set the dates of October 1st through November 15th.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to permit a Halloween outreach as a temporary Commercial Recreation Facility.

SECTION 1219.B USE UNIT 19. HOTEL, MOTEL AND RECREATION FACILITIES, per plan submitted; subject to a three year period 1996-1998; subject to October 1 through November 15th annually; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code; on the following described property:

Lots 12 through 17 inclusive, Block 1, corrected plat of Memorial Industrial Park, as subdivision of the City of Tulsa, Tulsa County, Oklahoma and the N 150' of Lots 9, 10 and 11, Block 1, Memorial Industrial Park, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17470

Action Requested:

Variance to allow an RV located on side yard as a temporary dwelling. **SECTION 402.B.7.b. 1&2 ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 11646 East 14th Street.

Presentation:

The applicant, **Tonnie Pierce**, 11646 East 14th Street, submitted a site plan (Exhibit C-1), photographs (Exhibit C-2) and stated she would like to have a small RV trailer installed next to her home for her 88 year old father, who is in very failing health, to live in. She explained she is a nurse and she takes care of him. She stated the RV is maintained only as a sleeping area for her father. She further stated he spends the majority of the day either in her home or walking in the yard. She explained there is a TV and telephone in the trailer so that her father can enjoy his own quiet time. She stated the RV is a temporary setup. She indicated there is no cooking done in the RV and her father baths in her home. She stated the trailer is 23' long and her home is 26' wide. She further stated the RV is maintained well and it is hooked up to electricity, cable and phone. She commented that since her father has learned that he may lose his independence and living facility, he has become very depressed.

Comments and Questions:

Mr. White asked the applicant if the RV trailer was already in existence and how long has it been located next to her home? She stated the RV has been located in the subject area since October of 1995. She further stated there has never been any complaints until June 1996.

Ms. Pierce explained that her father has congestive heart failure, pulmonary edema, diabetes, prostate cancer, organic brain syndrome and it is just a matter of time before her father will pass on.

Mr. Bolzle asked the applicant if she knew how large her lot is? She stated her lot is 100' x 200'.

Mr. Bolzle asked the applicant if the RV is located on the west side of the house? She stated it is located on the west side of the house and the neighbor to the west of her home has signed a letter stating he has no objections to the RV.

Ms. Abbott asked the applicant how many accessory buildings were located on the subject property? She stated she has two other sheds and a lean to in the back yard. She indicated the shed next to the RV is a shop for her husband to work in.

Protestants:

Donna Kimery, 1410 South 117th East Avenue, stated she lives two doors down from the applicant. She further stated her daughter lives adjacent to the subject property and has written a letter opposing this application. She indicated the Pierces knew prior to setting this RV up for residence that they had to go through the Board. She stated they set an independent meter that looks like a permanent structure to her. She further stated the Pierce's home is large enough for her father to live in. She revealed that her 83 year old mother lives with her inside her home. She commented that there are five (5) outside buildings not counting the RV. She indicated the Pierces just recently set up another portable type of building but it is set on a concrete post, which makes it permanent. She further indicated that three (3) of the portable buildings are set up right against the property line. She commented she is afraid that once the RV is approved it will become permanent and will never be removed. She read her daughter's letter opposing this application.

Comments and Questions:

Ms. Turnbo asked Ms. Kimery if she had a problem if the Board set a time limit on the RV at which time the RV would have to be removed? She stated it would bother her because the Pierces are not good neighbors.

Mr. Bolzle asked, apart from Ms. Kimery's personal feelings regarding the Pierces, is the primary concern the fact that this is just one more problem to deal with or is there something specific about this use? She answered affirmatively. She stated the Pierces are inconsiderate neighbors.

Mr. Bolzle stated the Board does not have anything to do with whether neighbors are considerate, the Board looks at each application from a land use point of view.

Mr. Bolzle asked if there is a limit on the number of outbuildings one can have or just an area? Mr. Gardner stated the detached accessory buildings are limited to a maximum of 750 SF.

Protestants:

Bobby Cole, 1418 South 117th East Avenue, stated he lives 500' from the Pierce's residence. He stated he is attending this meeting to find out why the Pierce's need a Variance. He commented the City ordinance allows RV's on a residential property and he owns an RV himself. He questioned why using an RV as a temporary residence on private property would be necessary if the home is already there? He stated the unit is hooked up to water and electricity. He expressed concerns about how long the RV would be located next to the home and what is the nature of establishing a residence in an RV when a home is already in place. He stated he is not here to object to a person needing a place to live, but he doesn't know if an RV on a residential property would be the thing to do.

Norma Grace, 1401 South 117th East Avenue, stated her home is directly to the east across the street from the Pierce residence. She further stated she has lived there for 32 years and have worked diligently to establish a home that is attractive and comfortable. She commented that she is proud of her home and felt she had assurance with constrictive covenants, Codes and zoning in place that would protect her investment in her home. She indicated any variances granted in the area will lead to other variances and eventually will lead to the decline of the neighborhood. She stated the variance should be rejected and all Codes and ordinances should stand. She commented the Pierces have a red metal storage building outside the building line and she has never complained about it, but there comes a point when you have to object to anything more. She further commented now it was up to the Board to protect her investment.

Comments and Questions:

Ms. Abbott asked the Staff what constitutes a temporary residence? Mr. Gardner stated the ordinance makes a distinction between a manufactured dwelling, which is a residence of a permanent nature albeit it could be removed versus a recreational vehicle which is a temporary place of stay. The Code envisions that a recreational vehicle is used in camping and not used for residential purposes on a residential lot. He further stated for the Board's review of the recreational vehicle, the Board will have to think of it in terms of a manufactured home or temporary residence living accommodations if they are inclined to grant any relief. He pointed out what is important to note is this is hooked up to electric and it is simply sleeping accommodations according to the applicant. He stated even to use an RV to sleep in, it would require the Board to look at this application as a manufactured dwelling and a place of residence.

Applicant's Rebuttal:

Ms. Pierce stated her father stays in her home and uses her facilities for bathing and personal hygiene. She indicated that her father uses bottled water and electricity is the only utility hooked up to the RV. She further indicated the TV is for entertainment and the phone is for his security. She stated the RV is temporary and as soon as her father passes away the RV will be removed.

Comments and Questions:

Ms. Abbott asked the applicant for the total number of storage buildings on her property? She indicated there are four (4) outside buildings.

Ms. Abbott asked the applicant if she knew the dimensions of each building? She stated the outside building to the east of the house needed a 4' x 8' sheet of plywood for the flooring and the shed beside the RV is approximately 10' x 12', which is used by her husband for a workshop. She further stated the building back on the property line is approximately 8' x 10' or 10' x 10'. She indicated the frame building holds wood and lumber and it measures approximately 8' x 6'. She stated the RV measures 7 1/2' by 23'.

Ms. Pierce stated the reason the RV was installed next to her home was because her father was living in Langely, Oklahoma for 20 years by himself. She described her father as an older man who still has a lot of pride and dignity and she reassured her father that he would have a place of his own, so that he would move next to her and allow her to care for him. She explained that her home is smaller than the neighbors that are attending this meeting. She further explained there is structural damage to the bedroom where her father would have to live and it is falling off the side of her home. She stated she has people coming out to look at their home this week to see if it can be repaired. She reiterated that her father does not cook nor bath in the RV.

Case No. 17470 (continued)

Mr. White asked the applicant if all the utilities were hooked up for the RV? She stated there is no water and no sewer hooked up to the RV. She further stated her father comes to her home for bathing and eating. She commented the electricity, telephone and cable TV are the only utilities hooked up to the RV. She explained she uses an open flamed heater in her home, because her furnace is out, and she is not sure how safe that would be for her father to be around all day, especially when there is a possibility he will eventually need oxygen. She commented two of her neighbors have their parents in their homes with them, but at this point her father does not want to live in their home, he wants his own independence as was promised him.

Mr. Bolzle asked the Staff if there has ever been a case like this before? Mr. Gardner stated there may have been, but he cannot recall.

Mr. Bolzle stated the Board reviews each case on their own merits and the Board does not set precedence by their actions. He further stated to consider an RV as a manufactured home would probably result in others asking for the same relief.

Mr. Gardner stated the Staff recommended that if the Board considered approval it should be for a very short period of time because the vehicle is not designed to be a permanent residence.

Mr. White stated the total area of all the buildings, including the RV, apparently fall within the 750 SF limit. He further stated there are no full utilities hooked up to the RV and parking the RV unoccupied is perfectly within their rights.

Mr. Gardner stated the RV can legally be parked next to the home, it just couldn't be occupied. He further stated if the Board was considering a temporary use, but knowing that the applicant might be back with another application, the Board might want to address that now. He explained the Board can approve the use for a very short period of time until the applicant can find another location or make other arrangements and the applicant should know that the Board will not extend the short period of time.

Ms. Abbott asked the applicant if she had a two or three bedroom home? She further asked the applicant if the bedroom her father would occupy has had structural damage? She stated she has a three bedroom home and there is structural damage to the whole house.

Case No. 17470 (continued)

Ms. Abbott asked the applicant if she will be repairing the structural damage shortly? She stated she hoped to have the structural damage repaired soon. She explained the RV is a temporary setting and she does not intend to bring anyone else in after her father passes away. She indicated the RV does have skirting around it to keep the cold out, since her father does sleep in the RV.

Mr. Bolzle asked the Staff if the Board were concerned that an approval of any sort would lead to the potential for abuses or more applications, which he really did not want to see, is it possible to deny this application and give an extended grace period to move this structure? Mr. Gardner stated the Board has done so in the past.

Ms. Parnell stated Code Enforcement gets complaints on a regular basis on RV's that are connected to utilities due to the new ordinances. She further stated approximately 75% of the RV's Code Enforcement checks on are connected to electricity. She explained the only difference is that they are running a long industrial extension cord into the garage. She further explained the RV owners tell her that they keep their RV's hooked up in order to keep the refrigerator operating and to protect the electrical components on the vehicle. She commented she does not know enough about RV's to know if this is the truth, but the Code Officers tend to believe the owners. She stated they do enforce when the RV's are hooked up to sewer, water or gas. She explained the reason this lady is here before the Board today is because she is totally honest. She further explained she checked this applicant's RV for utilities and the applicant was home. She stated the applicant's father was setting in the RV and it was only hooked up to electric. She informed the neighbors that she would be the one to enforce this applicant's request should the Board approve it. Ms. Parnell stated she will be the one who will go out to check and make sure the applicant has removed the RV. She explained the Code Enforcement receives many complaints on different uses on RV's, such as the teenage son doing homework, husband has his computer hooked up, friends staying the weekend, but it is not something Code Enforcement has been able to work because it usually happens at night and weekends. She stated the applicant was honest with her and now she is before the Board because of the complaint filed.

Mr. White asked Ms. Parnell if the very presence of the RV is a problem? She stated the applicant can have an RV parked on her property and the very fact that it is hooked to electricity is really not a problem. Ms. Parnell stated that Mr. Jackere, City Attorney, indicated to her that she should never write a citation on a recreational vehicle just because it is hooked to electricity, because there are electrical concerns to these types of vehicles.

Ms. Pierce stated the RV will only be located on her property until her father passes away and asked the Board to approve this request.

Ms. Parnell addressed the neighbors present to oppose this application, that if they had any other problems with Ms. Pierce's property it is also something Code Enforcement would address. She stated she would give the neighbors a card as they leave so that they can call her with their concerns.

Jim Grace, 1401 South 117th East Avenue, stated he lives across the street from the Pierces. He further stated there are people in the neighborhood that have lived there for 60 years and they have never allowed any type of RV's in the neighborhood. He asked what is called temporary and how long will it be? He stated the neighbors have a lot of money invested in their homes. He commented that the neighborhood has had written agreements with the Pierce's in the past and they didn't stick with their word. He expressed concerns that the RV would never be removed due to numerous extensions. He stated Mr. Cole has a large RV and will not store it on his land because of his neighbors concerns. He further stated if you change the codes and make them temporary they end up being permanent in the future. He commented he has seen this same situation happen in the City for many years. He stated the Pierce's do have five (5) outbuildings, but the neighbors haven't complained about the buildings. He commented the applicant erected a portable building next to his home and now Mr. Grace can see the building when he steps out the front of his home. He further commented the Pierce's have not kept their word with the neighbors nor the City in the past.

Ms. Abbott asked Mr. Grace what the agreement was for that he has mentioned? He stated there was a law suit and the neighborhood signed an agreement with an attorney, then the Pierce's did not want to agree with the agreement they had signed and now the neighborhood is in a law suit again. He stated the agreement was regarding a detention pond.

Ms. Turnbo asked Mr. Grace if he understands that the RV can stay parked where it is now legally? He answered affirmatively. He stated as long as someone does not live in the RV it can be located where it is presently.

Mr. Grace stated that had the Pierce's not asked for a variance on the RV he would not have mentioned it until the father had died and then he would have asked the applicant to move the RV. He further stated that since there is a variance being requested, it is not only what the applicant will do with the variance, but what other neighbors might do once a variance has been approved.

Ms. Parnell explained to Mr. Grace that Ms. Pierce is before the Board today because of Code Enforcement. Mr. Grace stated he understands why the Pierce's are here today.

Case No. 17470 (continued)

Ms. Parnell stated that Ms. Pierce is not here today because she wants the RV on the subject property for a long period of time, but because there was a complaint filed and she was advised to request a variance for a temporary period of time.

Mr. Grace stated that in six (6) months from now the Pierce's will not move the RV and Code Enforcement will be in for a battle.

In response to Mr. Grace, Ms. Parnell stated she will not be in for a big problem, the applicant will have to go to court and talk to the Judge, because Code will write a citation. She further stated that if the applicant does not honor that citation and appear in court, the court will issue a bench warrant for her arrest. Mr. Grace stated he is aware of the procedures and the neighborhood is going through that right now with the Pierces for the last year and half.

Mr. Grace asked what if other neighbors in the area want the same type of variance? He further stated the variance is for the neighborhood. Mr. Bolzle explained to Mr. Grace that this variance is for the subject property only.

Mr. Bolzle stated that Mr. Grace's concern is that this variance will repeat itself throughout the neighborhood, but he has been on the Board for eight (8) years and he has not seen that occur. He further stated he has observed Code Enforcement work to solve problems created by people who will not conform to the Board's requirements and they are very effective. He explained the applicant has asked for a variance and the Board needs to rule on the request.

Ms. Pierce stated she had no idea that her sheds were illegal where they are located. She further stated that if Code Enforcement tells her the sheds are illegal she will take care of them.

Mr. Bolzle stated he is not concerned about setting a precedence for other similar uses in the area. He commented he is confident that if another similar use occur in the neighborhood, then the neighborhood will contact Code Enforcement. He stated it is not this Board's intention to begin allowing basically two dwelling units on one lot of record, because it happens to be a dwelling unit on wheels. He further stated he is incline to allow this use for a very short period of time.

Ms. Abbott stated the Board should deny this application with a set period of time. She further stated the applicant indicated she had structural damage and will be repairing the structural damage in the future. She commented she would not object to the time period being one year.

Case No. 17470 (continued)

Mr. Bolzle stated he would consider one year to rearrange the sleeping accommodations.

Mr. White asked the if the Board can deny a request with a time frame? Ms. Turnbo indicated the Board could deny a request with a time frame.

Mr. Gardner stated the Board has denied a request with a time frame in the past. He further stated Code Enforcement is going to enforce the ordinance unless there is something in the minutes that tells Code Enforcement not to enforce this ordinance for a period of six (6) months or whatever the number of months the Board sets.

Mr. Bolzle stated that this request is an unfortunate situation and the Board is willing to grant relief for a very short period of time. He further stated the Board does not want to send a message that this is a variance the Board wants to see again.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **DENY** a **Variance** to allow an RV located on side yard as a temporary dwelling and Code Enforcement is instructed to give the applicant one year to make other arrangements. **SECTION 402.B.7.b. 1&2 ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance requests; on the following described property:

N 100', E 200', Lot 1, Block 8, Elm Hurst Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17471

Action Requested:

Special Exception to permit the change in the use of 1,208 SF from retail use to restaurant and accessory bar use to permit the expansion of the existing Polo Grill restaurant without providing the additional required parking spaces. **SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMITIES**, located at Utica Square Shopping Center.

Presentation:

The applicant, **Charles E. Norman**, 2900 Mid-Continent Tower, representing Helmerich & Payne, stated the purpose of the application is to permit a small expansion of the Polo Grill restaurant into part of the same building that has been occupied by retail uses. He further stated the conversion of the retail space, 1200 SF, into the restaurant and an addition to the bar area increases the parking requirement for the restaurant use by approximately eight (8) spaces. He indicated that the Utica Square Shopping Center is primarily located within a CH zoning district and was developed prior to the establishment of off-street parking requirements within the CH district. He further indicated the shopping center has a deficit of parking spaces, if you consider the current Code requirements, however the Code permits the Board of Adjustment as an exception to approve changes in use, which increased the number of required parking spaces so long as that increase does not result in a greater incompatibility of the shopping center with its neighbors. He stated the conversion of the Polo Grill restaurant increases the utilization slightly in the evening hours when the retailers are closed and there has been no problem with the parking adequacy in the immediate area of the restaurant itself. He further stated the shopping center has more than 1600 parking spaces and this increase of the requirement or deficit by eight (8) spaces will not be noticeable by any of the uses in the immediate area. He requests that the Board approve this special exception as outlined by the Staff.

Comments and Questions:

Mr. Bolzle asked the staff if the Code allowed the Board to vary up to 10% of the parking on mixed use and varying hours? Mr. Gardner answered affirmatively. He stated the shopping center probably does not meet today's standards and 10% varying would not help the situation. Mr. Gardner further stated the Board will have to look at the amount of square footage being asked and the circumstances.

Mr. Norman stated this situation was specifically recognized in a nonconforming use chapter of the Code where it does not require a hardship or variance, only a determination that it would not have an adverse affect on the use of the properties and those would primarily be the Yorktown Apartments, which are east of the street. He commented he did not think anyone has ever observed any kind of off-street parking impact on the apartments. He stated previous conversions within the shopping center have been two restaurants and the square added parking for the Saks store, which is located in the CS district and always had a parking requirement. He indicated the special exception only relates to the nonconforming areas within the shopping center.

Case No. 17471 (continued)

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to permit the change in the use of 1,208 SF from retail use to restaurant and accessory bar use to permit the expansion of the existing Polo Grill restaurant without providing the additional required (8) parking spaces. **SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMITIES**; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit or intent of the Code, on the following described property:

All that part of the NW/4, NE/4, Sec. 18, T-19-N, R-13-E, I.B.M., N of 22nd Pl. in the City of Tulsa, LESS AND EXCEPT the N 125' of the E 163.80' thereof, and LESS AND EXCEPT the N 200' of the W 230' thereof, and LESS AND EXCEPT the S 100' of the N 300' of the W 181.37' thereof; and All that part of the NE/4, NE/4, Sec. 18, T-19-N, R-13-E, I.B.M., N of 22nd Pl. and W. of Yorktown Ave. in the City of Tulsa, LESS AND EXCEPT the N 185' thereof, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17472

Action Requested:

Variance to allow required parking on a lot other than the principal use lot. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS** - Use Unit 15, located 3920 East Pine Street.

Presentation:

The applicant, **Cecil E. Ricks**, requested a continuance to September 24, 1996, to enable this case to be readvertised to include the proposed parking lot.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **CONTINUE** Case No. 17472 to September 24, 1996, to enable readvertising to include the proposed parking lot.

Case No. 17473

Action Requested:

Approval of an amended site plan to allow the erection of a replacement sign in the same location but increase the height from 7'8" to 19'10". **SECTION** - Use Unit 21, located SE/c of East 15th Street and South Peoria.

Case No. 17473 (continued)

Presentation:

The applicant, **Barry Moydell/Oil Capital Neon**, 1221 Charles Page Boulevard, submitted a drawing (Exhibit D-1), site plan (Exhibit D-2) and stated he came before the Board two years ago, but needs to change the site plan to obtain approval. He further stated the original sign will be used with the new sign. He indicated there are stores that you cannot see when you are at the intersection and they need the advertising of their location. He stated the interim sign height has been cut down and it does not block the view of any other signs.

Comments and Questions:

Mr. Bolzle asked the applicant if he is moving the 15th Street sign to Peoria? He stated the existing sign on 15th Street will have a directory, reader board and a pole cover to indicate what stores are located in Lincoln Plaza.

Mr. Beach asked the applicant to clarify that the sign is the same sign, same setback and the only change is the height? He confirmed that the sign is the same sign, the setback does not change, only the height will change.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** an **Approval** of an amended site plan to allow the erection of a replacement sign in the same location but increase the height from 7'8" to 19'10". **SECTION** - Use Unit 21; per amended plan submitted; finding that the approval of this request will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

All of Block 8, Orcutt Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17474

Action Requested:

Approval of an amendment to a previously approved site plan. **SECTION 601. and 401. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS AND PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 13650 East 21st Street.

Presentation:

The applicant, **Charles Chief Boyd**, 4998 East 26th Street, submitted a site plan (Exhibit E-1) and stated the application is on behalf of Berean Fellowship Church. He further stated he is resubmitting the site plan with the new structure indicated. He indicated the church would like to build a sanctuary.

Case No. 17474 (continued)

Protestants: None.

Comments and Questions:

Ms. Turnbo stated she had no problem with this application.

Mr. White concurred with Ms. Turnbo.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** an amendment to a previously approved site plan. **SECTION 601. and 401. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS AND PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per amended plan submitted; finding that the approval of this request will not be injurious to the area, nor harmful to the spirit and intent of the Code; on the following described property:

E/2, E/2, NE/4, NW/4, Sec. 16, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17475

Action Requested:

Special Exception to allow an existing church in a RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**; Variance to allow an expansion of a lobby entrance to a non-conforming structure. **SECTION 1402.A. NONCONFORMING USE OF BUILDINGS, OR BUILDINGS AND LAND IN COMBINATION**, Use Unit 2; and a Variance to allow parking within the required front yard. **SECTION 1202.C.5.b. USE UNIT 2, AREA-WIDE SPECIAL EXCEPTION USES**; Use Conditions, located 14905 East 21st Street.

Presentation:

The applicant, **Sy Pham**, 14905 East 21st Street, representing St. Joseph Catholic Church, submitted a site plan (Exhibit F-1), plat of survey (Exhibit F-2) and stated the church was purchased approximately seven (7) years ago and due to increase of membership, the church would like to expand to provide for 100 additional people.

Comments and Questions:

Ms. Abbott asked the staff if the church meets the parking requirement? Mr. Beach stated according to the plan submitted he exceeds the parking requirement.

Mr. White asked the applicant if the building to the rear of the church is the Minister's home? He stated the building is the residence of the Minister's.

Case No. 17475 (continued)

Ms. Abbott asked if the applicant if the parking will be over the front or rear setback line? Mr. Beach stated the parking would be across the front setback line.

Ms. Abbott asked if the applicant would still meet the parking requirements if the parking across the front setback line were not allowed? Mr. Beach answered affirmatively.

Ms. Turnbo asked the staff if they are requesting the Board not to approve the variance for the parking in the front yard? Mr. Beach stated the variance for the front yard parking is unnecessary to meet the parking requirement and asked that the Board not approve the variance.

Mr. White asked if the variance could be approved with a removal contract? Mr. Beach answered affirmatively.

Mr. Gardner asked the applicant if the parking spaces on the plan in front of the existing church are existing? He answered affirmatively.

Mr. Pham stated he is not expanding the parking, it already exists.

Mr. Gardner stated the applicant bought a previous church where the parking in the front yard already existed and now he wants to clear up the record by requesting a variance to allow the front yard parking.

Ms. Abbott asked if the Board denied the variance for the front yard parking could it remain as nonconforming? Mr. Gardner answered affirmatively.

Mr. Gardner stated if the existing parking in the front yard was built without a permit or proper relief then it is illegal. He further stated the church does not have a legal nonconforming use. He explained the church is asking the Board to approve what is physically already existing so the church can keep the parking as it is and not be an issue in the future. He further explained it amounts to nine (9) spaces.

Mr. Beach stated 21st Street is a primary arterial with 120' planned right-of-way, 21st Street may or may not ever be expanded, the staff was concerned about the approval of the variance for the front yard parking, which would allow the parking spaces to always be there. He explained if the parking spaces should ever be removed, the parking spaces should be removed and never replaced.

Case No. 17475 (continued)

Mr. Gardner stated churches are often located in residential areas and that is why the parking is not allowed in the front yard. He further stated having the parking setting behind the building and around the sides would harmonize better with residences that might be on either side. He explained the subject church has commercial property across the street and the commercial property does not have any setback on their parking. He stated the Board will have to look at the particular area and see if that aspect of the Code is being accomplished.

Mr. Bolzle stated with CS zoning across the street he did not see why the Board would not approve the front yard parking spaces.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to allow an existing church in a RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; Variance** to allow an expansion of a lobby entrance to a non-conforming structure. **SECTION 1402.A. NONCONFORMING USE OF BUILDINGS, OR BUILDINGS AND LAND IN COMBINATION, Use Unit 2; and a Variance** to allow parking within the required front yard. **SECTION 1202.C.5.b. USE UNIT 2, AREA-WIDE SPECIAL EXCEPTION USES; Use Conditions; per plan** submitted; finding the area consists of commercial and office zoning which allows parking to the property lie and finding that the approval of this application will not be injurious to the area, nor harmful to the spirit or intent of the Code; on the following described property:

W 180', S 609', W/2, W/2, SE, SW, Sec. 10, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17477

Action Requested:

Special Exception to permit a home occupation, water pump repair, in a RM-1 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 6, located 136 North Delaware Avenue.**

Comments and Questions:

Mr. Bolzle asked the staff if this application is where the Board needs to make a determination whether this use is a Use Unit 15 before it hears the case? Mr. Beach answered affirmatively. He further stated that the Code excludes Use Units 15-28 as possible home occupations.

Case No. 17477 (continued)

Mr. Bolzle asked the applicant if he understood the Board's concern about whether the use is a Use Unit 15? He answered negatively.

Mr. Bolzle explained to the applicant that there are certain uses that are absolutely prohibited as home occupations. He further explained that the Code is divided into Use Units that are classified by noise, odor, intensity of use, etc. He stated the Board needs to decide whether or not what the applicant is proposing is a Use Unit that is not allowed as a home occupation. He further stated if the use is not allowed, then the Board cannot help the applicant with relief to allow the use.

Presentation:

The applicant, **Gerald D. Rea**, 136 North Delaware Avenue, stated that he rebuilds automotive water pumps. He further stated he does not advertise and he is not listed in the phone book.

Comments and Questions:

Mr. Bolzle asked the applicant what it takes to rebuild a water pump? He stated he disassembles and rebuilds water pumps with new parts.

Mr. Bolzle asked the applicant if he does any drilling, boring or use any equipment to break the water pump apart? He stated he uses presses to disassemble and assemble the water pumps. He explained he uses an airless shop blaster that he cleans with. He further explained the airless shop blaster is a sandblaster that is all enclosed in a cabinet. He stated he has been rebuilding water pumps since 1984.

Mr. Bolzle asked the applicant if he has been rebuilding water pumps since 1984 at his current location? He answered affirmatively.

Mr. Gardner asked the applicant how he became in front of the Board? Ms. Parnell stated there was a complaint from a neighbor.

Mr. Bolzle asked Ms. Parnell what the neighbor was specifically complaining about? She stated the complaint reads business in residential area. She further stated the complaint was filed July 8, 1996. Ms. Parnell explained that she left a card with Mr. Rea's wife and he called her back. She further explained that the applicant explained what type of work he does at his residence and she referred him to Mr. Beach at INCOG to see if he could go before the Board.

Ms. Abbott stated the Board received a letter of complaint from Norman Cass (Exhibit G-1) that states they own property located at 138 through 140 North Delaware Place and they do not believe that a water pump repair shop will improve the neighborhood.

Case No. 17477 (continued)

Ms. Turnbo asked the staff what Use Unit would they classify the applicant, regarding how he has described his business? Mr. Beach stated when the application came in it sounded like a hobby that anyone might do in their garages. He further stated now in fact, it is commercial, and cast a different light on the application. He explained that the only Use Unit he could find to place this business would be Use Unit 15.

Ms. Parnell stated the reason she referred this gentleman to Jim Beach at INCOG was because the applicant indicated he did very few repairs and that they were specialized for high performance type vehicles. She explained the public can not take off their water pump and take it to the applicant, and she thought this might make the situation a little unusual and could possibly be classified in another Use Unit.

Ms. Abbott asked the applicant if the water pump repair was his primary occupation? He answered negatively.

Ms. Abbott asked the applicant if he is repairing water pumps everyday? He stated he is only repairing water pumps on Thursday, Friday and Saturday.

Mr. Gardner stated that Use Unit 14 is something the Board could permit as a home occupation. He further stated if the Board can find something in Use Unit 14 that is very similar to what the applicant does in his shop than it can be permitted. He explained if the Board could not find an equivalent description of the applicant's work in Use Unit 14 and since it is automotive related it would have to be defined as a Use Unit 15 or 17. He listed the services considered Use Unit 14 as follows: gunsmith, household appliance repair, radio & television repair and tune-up service.

Mr. Bolzle asked the applicant if he was repairing the water pumps in his garage? He answered affirmatively. He stated his two (2) presses that measure 3' x 6' x 2' that he uses to take the water pumps apart with and to reassemble the water pumps.

Mr. Bolzle asked the applicant if the presses make a lot of noise when in use? He stated he did not think the presses make a lot of noise.

Mr. Bolzle asked the applicant if the presses were mechanical? He stated the presses are electric driven hydraulic motor. He further stated he also has a hand press that he uses.

Mr. Bolzle asked the applicant how he uses the airless shop blaster that is fully contained? He explained there is an 18" wide tub in a steel cabinet and the tub turns at 6 rpms with a fan in the bottom that slings steel shot through an expanded metal tub and it cleans the parts.

Case No. 17477 (continued)

Mr. Bolzle asked the applicant if you are standing next to the shop blaster could you carry on a conversation? He stated the noise level is low. He indicated you can hear the shop blaster running while setting on his patio, but in the front yard the traffic makes more noise.

Mr. Bolzle asked the applicant if the shop blaster makes the most noise of all of his equipment? He answered affirmatively.

Mr. Bolzle asked the applicant how long the shop blaster runs? He indicated it runs seven (7) to eight (8) minutes approximately three (3) to four (4) times a week.

Mr. Bolzle asked the applicant how late into the night does he work in his shop? He stated usually during the day hours of Thursday, Friday and Saturday with the hours of 8:00 a.m. to 6:00 p.m.

Ms. Turnbo asked the applicant if he wears ear protection for noise while operating the equipment? He answered negatively. He explained he works in a place where he does have to wear ear protection and he is aware of what that requires.

Mr. Bolzle asked the applicant if he works with the garage doors opened, shut or is it ventilated? Mr. Bolzle further asked the applicant if the business is noticeable from the street? He stated you would not know that anything is going on in his garage.

Mr. White asked the applicant if he had any solvents of any sort? He stated he has a safety clean tub that he uses with a spray nozzle.

Protestants:

Eloise Flippin, 140 North Delaware, stated she lives next door to the applicant. She further stated that the water pump repair business is not fully contained in his garage. She indicated that the applicant has built a storage building in the back of his property, which is approximately 20' x 16' and in front of the building he has erected an L-shaped privacy fence with a sheet iron roof. She further indicated that the tumbler is contained in the storage building and he burns something in the building that smells so bad that you cannot stay in the back yard. She commented that she has to close her windows and doors to keep the smell out of her home. She further commented that the children cannot play in the backyard when he is burning. She stated the tumbler sounds like a bunch of iron tumbling in a dryer and he runs the tumbler at any time he wishes. She indicated he has run the tumbler as late as 10:30 p.m. She stated the applicant has built an extension on his garage that measures approximately 30' to 40' long. She further stated the applicants backyard is totally filled with buildings and garage.

Case No. 17477 (continued)

Mr. Bolzle asked Ms. Flippin when the applicant extended his garage? She stated approximately four (4) years ago.

Ms. Abbott asked Ms. Flippin if the applicant's has a single or two car garage? She stated the applicant has a two car garage.

Ms. Flippin stated the applicant does work in his garage more than he indicated. She further stated that the applicant had a fire in the Spring when it was dry, which destroyed the L-shaped privacy fence and killed one of her shrubs and a tree.

Mr. Bolzle asked Ms. Parnell to describe the subject property when she called on Mr. Rea? She stated she did not go into Mr. Rea's backyard, but she did go to the back of the house and he does have a detached two-car garage that sets toward the back of his property. She further stated she did not see a building with a tin roof or picket fence around it. She commented she did not see what looked like a 40' extension built on. She explained she walked to the back of the house to see if there was anything that indicated auto repair, which she did not see anything that indicated auto repair in Mr. Rea's backyard.

Applicant's Rebuttal:

Mr. Rea stated his garage is approximately 725 SF, which the first part was built in 1966 and was added on to in 1989. He further stated he has a 14' x 18' portable building that sets on 2' x 6' runners.

Comments and Questions:

Ms. Abbott asked the staff if the garage would be considered an accessory building? Mr. Gardner answered affirmatively. He stated the 14' x 18' building is essentially over and above the 750 SF the applicant is permitted to have as a customary detached accessory building.

Mr. White asked the applicant about the odor from something burning and noise from a tumbler that the protestant referred to? He stated the noise is from his tumbler. He explained he does a lot of things in his garage that is not all water pump repair. He further explained he was making an A-frame and cutting some steel, which caused some odor. He stated sometimes the wash-up solution smells.

Mr. Bolzle stated since Mr. Rea uses equipment that is fairly large and creates noise, along with solvents that have odors would separate this use from Use Unit 14.

Ms. Turnbo stated she agrees with Mr. Bolzle and could not classify this use with a Use Unit 14.

Mr. White agreed that Use Unit 14 would not be an applicable use for this application.

Case No. 17477 (continued)

Mr. Bolzle stated in good faith he could not classify this use in a Use Unit 14 and that would be the only category that would allow the Board to give an approval.

Mr. Gardner stated the Board can say the use is a Use Unit 15 or deny the application as inappropriate. He further stated conditions of a home occupation needs to be either in the house or in a customary accessory building and if you have two buildings that do not meet the requirements of the terms of the ordinance, then you are getting away from what makes something compatible as a home occupation. He detailed that you get into the noise, odors, etc. and those things that make it a use that doesn't fit the home occupation.

Mr. Linker stated the appropriate action, if the Board determines this application is not a Use Unit 14 and is indeed a Use Unit 15, deny the request because it is a Use Unit 15.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **DENY** a **Special Exception** to permit a home occupation, water pump repair, in a RM-1 zoned district. **SECTION 401.**

PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 6; finding that the application for water pump repair is a Use Unit 15; finding that the approval of this application will be injurious to the neighborhood and harmful to the spirit and intent of the Code, on the following described property:

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

Case No. 17478

Action Requested:

Special Exception to allow a car sales lot in a CS zoned district. **SECTION 701.**
PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, Use Unit 17, and a Variance of the requirement that there shall be no open air storage or display of merchandise within 300' of an adjoining R zoned district. **SECTION 1217.C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES;** Use Conditions, located 10759 East Admiral Place.

Presentation:

The applicant, **Richard Cleverdon**, 616 South Main, representing the owner of the property, submitted a site plan (Exhibit H-1) and stated one of the purposes for bringing the request for the variance, as a historic matter, there have been a strictly conforming use of the property, which a portion of the property had been sold for other purposes and the definition for authorized uses changed functionally by reason of the severance of the property. He further stated at this time the owners seek to conduct a retail sales of automobiles and also to sale mobile homes on the property. He explained the use that the owner proposes and request might have been allowed as a matter of right under a different zoning category, but the use the applicant would like to have qualifies for a Use Exception. He further explained that a Use Exception has the process of limiting the additional uses that would not be desired by this owner which might develop later. He stated based on his understanding of the area, the use would be reasonably compatible with other uses in this Corridor along Admiral Place. He explained that at the time of the zoning application there was one party who appeared and he indicated he had no objection to the ultimate qualification of the land to sale used cars. He requested that this application be approved.

Protestants: None.

Comments and Questions:

Mr. Gardner stated the only residential zoning that is within 300' of the subject property borders on the north half of the west side.

Mr. Beach stated the R district that borders the subject property is vacant. He further stated there is a creek that runs through the northwest corner of the R district.

Mr. White commented that the property to the north of the R district is the Holiday Mobile Home Park that was washed out in the flood of 1984.

Mr. Beach commented considering the surrounding development of the R district it is unlikely it will ever be developed as residential property.

Mr. White asked the applicant if the paved area will be expanded for parking or will the parking of the vehicles going to be limited strictly to what is already paved? Mr. Kelly Tomasin, owner of the property, 216 West Charleston, Broken Arrow, stated he plans to keep the parking as it is for the present time.

Mr. White asked Mr. Tomasin if all vehicles will be parked on the paved area and not on the grass? He stated he hasn't planned to do any additional paving and the cars will be parked on the pavement.

Mr. White explained to Mr. Tomasin that Code Enforcement submitted photographs (Exhibit H-2) of cars being parked on grass. Mr. Tomasin stated he was issued a Code Violation and since has ceased parking the cars on the grass.

Ms. Turnbo asked Mr. Tomasin if he repaired vehicles on site? He stated he may replace dented fenders, but the car is taken to a paint and body shop for painting.

Ms. Turnbo asked Mr. Tomasin if the repairs are done inside a building or on the parking lot? He stated the repairs are done mostly in back of the building on the parking lot.

Mr. White asked Mr. Tomasin if the painting is done on site? He answered negatively. He explained the cars are taken to a paint and body shop for painting. He further explained in the used car business you usually have to replace parts or fenders.

Mr. White asked Mr. Tomasin what type of merchandise other than the vehicles will be on display? He stated used cars are the only thing he plans to display at this time. He further stated the request about mobile homes can be denied, because he has leased another lot to sale mobile homes.

Mr. Bolzle explained to Mr. Tomasin that his request for mobile home sales is not included in this application. Mr. Tomasin stated that was fine because there is nothing but car sales on the subject lot.

Mr. Bolzle asked the staff if the Board is approving this application for the entire piece of property as it exists today or will Mr. Tomasin be allowed to tear it down? Mr. Gardner stated if the Board does not mind the applicant paving additional areas to put additional cars on, then he could do that if the Board does not limit the applicant to what is already existing.

Mr. Gardner stated nothing should be placed on the northern portion of the subject property that might interfere with the floodplain.

Mr. Tomasin stated the appraisal on the property notes that the north 10,000 SF of the lot is in the flood zone and he plans to stay away from it. He further stated the City is going to clear out the flood zone and asphalt it, but he will not be displaying any cars in the flood zone.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to allow a car sales lot in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**, Use Unit 17, and a **Variance** of the requirement that there shall be no open air storage or display of merchandise within 300' of an adjoining R zoned district. **SECTION 1217.C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES**; Use Conditions; subject to the open air storage for display of automobiles only on a paved surface; finding that the approval of this application will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

A part of Block 1, Holiday Park, being more particularly described as follows, to-wit: beginning at the most SE/c of Block 1, Holiday Park, said point being on the N right-of-way line of E. Admiral Pl.; thence S88°57'11"W along the S line of said Block 1 for 125' to a point 40' E of the most SW/c of Block 1; thence N01°07'19"W for 525.41' to a point; thence N88°57'11"E for 125' to a point on the E line of Block 1; thence S01°07'20"E for 525.41' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17483

Action Requested:

Variance of the required setback from an abutting street as designated on the Major Street Plan. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 6, located 1449 South Newport Avenue.

Presentation:

The applicant, **Ralph Lackner**, 1583 Swan Drive, submitted a site plan (Exhibit I-1), photographs (Exhibit I-2) and stated he owns a lot at 1449 South Newport where he would like to build a home over 5' to the south toward 15th Street. He further stated the lot is the last of the lots that has not been developed. He referred to photographs submitted as references for dimensions of setbacks in the area. He informed the Board that his neighbor across the street was approved for the same variance he is requesting.

Comments and Questions:

Mr. Beach reminded the Board that they did hear a case exactly like the applicant's two or three months ago and granted the same request. He explained the other houses along 15th Street are approximately the same setback and if the Board approves this request, the house will line up with the other homes along 15th Street.

Case No. 17483 (continued)

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Variance** of the required setback from an abutting street as designated on the Major Street Plan. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 6; per plan submitted; finding that the approval of this request will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 5, Block 1, Maplevue on Cherry Street, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17484

Action Requested:

Variance of the 10' required side yard to 5'-8" to allow a garage addition. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2545 East 23rd Street.

Presentation:

The applicant, **Bill Powers**, representing Mark & Rebecca Salis, submitted a site plan (Exhibit J-1) and stated he was contracted to add a garage on along with some remodeling. He further stated there is an existing addition that is already at 5'-8" as opposed to 10', he is asking for 4'-2" variance on the side yard allowance. He explained that the lot is 50' wide, which requires a 10' and 5' side yard setbacks. He further explained the subject property is located in an area where the lots run considerably larger. He indicated the owner's need a two-car garage and there is no other way to accommodate the garage. He requested the Board approve 4'-2" variance. He informed the Board that there are many homes in the neighborhood that are built exactly like the subject property before the requirements for RS-2 were in existence.

Comments and Questions:

Mr. Bolzle told Mr. Powers that the case report shows the lot as 67' wide. He answered affirmatively.

Mr. Gardner stated the lot is smaller than the surrounding lots, but is 67' wide.

Mr. Beach stated the lot is smaller than RS-2 standards. He further stated the Board approved a request to allow a division of the lot in 1960.

Case No. 17484 (continued)

Mr. Bolzle asked the staff if the 75' x 140' meet the RS-2 standards? Mr. Beach stated 75' is the correct width.

Mr. Bolzle stated that this lot has a deficit of 8' from the proper front for an RS-2 lot.

Mr. Bolzle asked the staff if RS-3 required a 5' and 5' side yard? Mr. Beach answered affirmatively.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Variance** of the 10' required side yard to 5'-8" to allow a garage addition. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, per plan submitted; finding that the lot has an 8' deficit for the proper front in an RS-2 district; finding the addition aligns with the existing building and that the approval of this request will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

W 17', Lot 60 & 61, Block 2, Harter's Fourth Re-Sub., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17485

Action Requested:

Special Exception to allow airport use. **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 2, located East of Memorial Drive between Port Road and 36th Street North.

Presentation:

The applicant, **Kinney Baxter/Tulsa Airport Authority**, represented by Brett Kitchen, submitted a plat of survey (Exhibit K-1) and site plan (Exhibit K-2). Mr. Kitchen stated this is a continuation of buying land for noise purposes and future airport development. He further stated the airport authority has a tenant who is interested in building a commercial business on this tract, which is located across from the runway of the National Guard and American Airlines. He commented he understands the airport authority needs an airport use added to the light industrial zoning. He indicated that the airport authority will be coming before the Board in the near future because of the aggressive buying out of homes. He stated the airport authority needs to continue to develop the airport and change the zoning.

Case No. 17485 (continued)

Comments and Questions:

Mr. Bolzle asked the applicant if the subject property abuts the main commercial runway? He answered affirmatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to allow airport use. **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 2; per plan submitted, finding the request is consistent with the airport comprehensive plan and that the approval of this request will not be injurious to the area, nor harmful to the spirit and intent of the Code, on the following described property:

All of Block D of "Woodland Park", a subdivision of the N/2, NW/4, Sec. 24, and N/2, NE/4, Sec. 23, and E/2, SE/4, S of the AT&SF Railroad, Sec. 14, T-20-N, R-13-E, and a tract of land that is part of the W/2, W/2, W/2, Sec. 13, T-20-N, R-13-E, said tract of land being described as follows, to wit: Beginning at a point that is the SW/c, Sec. 13, T-20-N, R-13-E, thence N00°00'24"W and along the Wly line of Sec. 13 for 2639.63' to a point, said point being the W/4 corner, Sec. 13, T-20-N, R-13-E; thence continuing N00°00'24"W long the Wly line of Sec. 13 for 306.37'; thence N45°44'22"E for 922.01' to a point on the Ely line of the W/2, W/2, W/2, Sec. 13, T-20-N, R-13-E; thence S00°00'30"E along said Ely line for 3590.72' to a point on the Sly line of said Sec. 13; thence N89°53'37"W and along said Sly line for 660.50' to the POB of said tract of land, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17486

Action Requested:

Special Exception to permit a church in a RS-3 district to occupy an abandoned school. **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 2, located 4821 South 72nd East Avenue.

Presentation:

The applicant, **Clarence E. Lambert**, 6218 North 129th East Avenue, Owasso, representing Heritage Central Assembly of God, submitted a site plan (Exhibit L-1) and stated zoning ordinance requirements to this particular property will create unnecessary hardship. He further stated Heritage Central Assembly of God is an established church since 1907, however it is presently in a lease facility and the lease expires September 30, 1996. He informed the Board that the church's bid for the subject property was approved August 5, 1996. He stated the subject property was a school from 1973 into 1995. He further stated the facility was erected for usage which is limited, but ideal for the church's needs. He explained the school is now unoccupied and vandals have broken windows. He further explained the church will be very compatible to the original intent and utilization of this property. He commented that when this property is renovated, occupied and maintained, will enhance property values in the surrounding area and dissuade vandalism.

Comments and Questions:

Mr. Gardner informed the Board that he had received a call of support on this application. He stated the neighbors did raise the question that in the past the school had been a poling place and was wondering if the practice could continue.

Interested Parties:

George Butler, 7117 East 48th Place, stated he lives directly across from the subject property. He announced that he is strongly in favor of this application.

Comments and Questions:

Mr. Bolzle asked the applicant if the facility will be used as it is or will the church expand the building? He answered negatively. He stated the building has been vacant and the building needs to be renovated with the usual maintenance.

Ms. Abbott asked the applicant if the church would be leasing or buying the property? He stated the church will be buying the property.

Case No. 17486 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Turnbo, White, "aye"; no "nays" no "abstentions"; Box "absent") to **APPROVE** a **Special Exception** to permit a church in a RS-3 district to occupy an abandoned school. **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 1, Block 11, Park Plaza 7th Amended, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:20 p.m.

Date approved: 10 Sep 1996


Chair

