

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 729
Tuesday, June 24, 1997, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
------------------------	-----------------------	----------------------	-----------------------

Bolzle
Cooper
Dunham
Turnbo
White, Chair

Gardner
Beach
Huntsinger

Ballentine, Code
Enforcement
Parnell, Code
Enforcement
Romig, Legal
Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, June 20, 1997, at 1:33 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** the minutes of June 10, 1997, (No. 728).

UNFINISHED BUSINESS

Case No. 17718

Action Requested:

Special Exception for school use on new property and existing property. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, a Variance of total number of required parking spaces from 1375 to 844. **SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; Off-Street Parking and Loading Requirements**, and a Variance to allow parking on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 12150 East 11th Street.

Presentation:

The applicant, **A. Blaine Imel**, represented by Jim Spear/Tulsa Public Schools, stated he appeared before the Board and went through the details of what is proposed. He explained that he has re-advertised to get the exact number of parking spaces from 916 to 844. He stated that the subject site has parking on site and the 1300 required spaces is a requirement for when the school is in session along with the stadium. He explained that the stadium will be in use in the evening hours and will not conflict with the school during the regular school hours. Mr. Spear informed the Board that the school has an agreement with Lowrance Electronics to use their parking lot for additional off-site parking. He requested the Board to approve the application.

Comments and Questions:

Mr. Dunham asked the applicant if a restriction that the stadium cannot be used during school hours be a problem? Mr. Spear stated that if the stadium is used during school hours then the students involved would be involved with the activity and the school has sufficient parking for students. He requested that the restrictions for the stadium be worded in some way that the school can utilize the stadium during school hours for student activities when there will not be an increase in parking spaces.

In response to Mr. Dunham, Mr. Spear stated that the only other function for the stadium would be if someone rented the stadium, which would be a civic organization for use after school hours.

Mr. White asked the applicant if he has requested a plat waiver? Mr. Spear stated that he has already been before TAC for the plat waiver and it will be up for approval soon to waive the plat.

Mr. Gardner explained to the Board that the school does not intend to have a football game during the regular school hours. The football games will be in the evening, but if the bands are practicing in the stadium or some other students are using the stadium for something during the day, the stadium will be an accessory to the school use. The only time parking would be a conflict is if the school was in session and had 4,000 seats filled for a football game.

In response to Mr. White, Mr. Gardner stated that the tie contract should tie the parking for the land that was recently acquired and the parking that they will be adding to the main campus, which is the 40 acre tract.

Mr. Romig informed the Board that they could limit the use of the stadium for major events for times when the school is not in session.

Protestants: None.

Case No. 17718 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Special Exception** for school use on new property and existing property. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, a **Variance** of total number of required parking spaces from 1375 to 844. **SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; Off-Street Parking and Loading Requirements**, and a **Variance** to allow parking on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, per plan submitted; subject to a tie contract; subject to a condition that the stadium not be used for major events during school hours; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

NW, NE, LESS, Beg NW/c, TH E to NE/c, TH S 682.66, NLY CRV RT 141.80, N495.27, to PT 505 NL NE TH W TO PT 505 NWC NE TH N POB SEC 8, T-19-N, R-14-E, and property situated in the NW/c, Sec. 8, T-19-N, R-14-E, I.B.M., Tulsa County, Oklahoma, according to the U.S. Government Survey thereof and being more particularly described as follows: E 130', N 660', NE/4, NE/4, NW/4, of said Sec. 8, less and except any roadway dedication thereof; (B&N Corp.); N 300', NE/4, NE/4, NE/4, NW/4, said Sec. 8, less and except the E 130' thereof, and less and except any roadway dedications thereof; (B&N Corp.), City of Tulsa, Tulsa County, Oklahoma.

Case No. 17726

Action Requested:

Variance to permit required off-street parking to be located on a lot other than the lot containing the principal uses. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 2818 West 40th Street.

Presentation:

The applicant, **Jeffrey G. Levinson**, 35 East 18th Street, stated that his client's development plans are in a state of flux and his client wants to make sure the development plans are correct before coming before the Board. He requested a continuance to July 22, 1997.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17726 to July 22, 1997 at 1:00 p.m.

NEW APPLICATIONS

Case No. 11739

Action Requested:

Variance of the required distance from a church and from an R zoned district to operate a sexually oriented business. **SECTION 705. LOCATION OF SEXUALLY ORIENTED BUSINESS** - Use Unit 12a, located 8120 East 21st Street.

Presentation:

The applicant, **William Lee Gregory**, 3812 South 135th East Avenue, submitted a site plan (Exhibit A-1) and a plot plan (Exhibit A-2). Mr. Gregory stated that he is the owner of Affinity Newsstand. He explained that he opened a newsstand and not an adult bookstore. Mr. Gregory described the newsstand inventory as fifty percent adult and fifty percent non-adult. There is no licensing for a newsstand, but he has a business license in order to open the newsstand. He informed the Board that he was contacted by Mr. Ballentine of Code Enforcement, which stated he was in violation of zoning, being a sexually oriented business. Mr. Gregory stated that he is not an adult bookstore and he never claimed to be an adult bookstore.

Comments and Questions:

Mr. Bolzle asked the applicant if the basis for his appearance today is that he was misclassified? He answered affirmatively.

Mr. Bolzle informed the applicant that he is not properly before the Board for the issue that he is mis-classified. He stated that the application is for a variance from the setback.

Mr. Gregory stated he did everything that he was asked to do by the City of Tulsa.

Mr. Bolzle informed the applicant that the Code Enforcement Officer stated that the subject property is a sexually oriented business and until proven otherwise the business is a sexually oriented business. He explained to the applicant that since the Code Enforcement Officer stated the business is a sexually oriented business then he is in violation of the setback requirements. The application today is to seek a variance of the setback. Mr. Bolzle informed the applicant that if he wanted to argue that he is not a sexually oriented business then he needed to make an application to challenge the Code Enforcement Officer's determination.

Mr. Gardner asked the applicant if 90% of all the shelves, cabinets and displays are filled with something other than sexually oriented materials, the applicant answered negatively; Mr. Gardner informed the applicant that his answer is the definition of an Adult Book Store, a sexually oriented business.

Mr. Gregory stated that in the zoning enforcement that may be true, but not with the City licensing. He commented that he would not have invested his money into the business if he knew he could not stay there. The business has out of state newspapers, lingerie, etc. It is not a trashy adult bookstore and he should not be classified as such. He indicated that he measured and does not know what church he is too close to.

Mr. Dunham informed the applicant that he is in violation of the church south of 22nd Street. Mr. Dunham stated the church is around the corner from the subject property and demonstrated to the applicant the location of the church.

In response to Mr. Gregory, Mr. White informed him that the Board could not hear a re-classification request, because he is not properly advertised for that request.

Mr. Bolzle explained to the applicant that a definition under the Zoning Code of a sexually oriented business includes the statement that if the items classify under sexually oriented businesses occupy more than 10% of the display area of the subject business, then it is a sexually oriented business.

Mr. Gardner asked the applicant if his business license deals with any aspect of zoning or does it say anything about zoning clearance? Mr. Gregory stated that he was not aware if the license mentions anything regarding a zoning clearance. He explained that his license is posted at the store where it is supposed to be posted.

Mr. Gardner informed the applicant that if he is not properly zoned, then it does not matter how many licenses he obtains or how much money he spends. Mr. Gardner stated that it would be good for the City of Tulsa, in issuing business license, if there was some reference of a check off on a zoning clearance so that the City doesn't issue a license that is going to be in conflict with a zoning classification.

Ms. Parnell stated that in the license permitting office they ask the use and if the applicant stated a newsstand or bookstore, then that is what the permitting office goes by.

In response to Ms. Parnell, Mr. Gregory stated he told the licensing office what type of stock he had and the licensing office informed him that there is not a license for newsstands.

Mr. Cooper asked Mr. Gregory if he wanted to apply for a variance from the setback today? He answered affirmatively.

Mr. White stated that the application stands before the Board as it was applied for and it is a sexually oriented business by definition.

Bolzle informed the applicant that a variance requires that he state a hardship. He asked the applicant what is unusual about the subject property that would compel the Board to find that the zoning ordinance, which requires a 500' setback from a church or residence, to be unfair in his case. He requested the applicant to state his hardship.

Mr. Gregory stated he is not sure what the Board is asking for. Mr. Gregory explained that he went to the City of Tulsa and did everything that he was told to do before investing his money in the business. He stated that his customers do not come in for adult materials.

Mr. Bolzle asked Mr. Gregory to approach the Board so that he could see the photographs of his business that the Code Enforcement Officer had taken. Mr. Bolzle asked Mr. Gregory why he devoted 50% of his display to adult materials if his customers did not come in for adult material? Mr. Gregory stated the photographs are old and the store no longer has the material indicated in the photographs. He explained that he changed the materials to be in compliance with the ordinance for a newsstand.

Mr. Bolzle informed the applicant that if 10% or less of his store is made up of the adult materials then he does not need the variance and he is not classified as a sexually oriented business; Mr. Gregory stated his store does have more than 10% adult materials.

Mr. Gregory stated that his business is a sexually oriented business according to the Zoning Code. He explained that he did not intend to break the law by moving his store into the subject property.

In response to Mr. Bolzle, Mr. Gregory stated that there is nothing unusual about the subject property.

Protestants:

The following names represent protestants who did not speak, but wanted their opposition to this application known:

Al Nichols, 8525 East 16th Street; **CE & Clayda Stead**, 8925 East 15th; **Hank Brandt**, 8937 East 15th; **A.H. Medley**, 1716 South 75th East Avenue; **Randy & Leta Cosby**, 8705 East 21st Street; **Herb & Bernie McClure**, 2131 South Memorial; **Vela LaCasse**, 20 N. 35 West Avenue; **Annetta Whiting**, 8928 East 15th Street; **Joan Hess**, 8954 East 13th Street; **Frank & Jeanette Friedl**, 3133 South 74th East; **Hope**

Case No. 17739 (continued)

Eidson, 2131 South Memorial; **Richard Hall**, 2810 South 74th East Avenue; **Lou Staokle**, 6795 East 25th Place; **Christy Boggs**, 5773 East 27th Street; **C.W. McNarnee**, 2815 South Gary Place; **Sam Roop**, 1869 South 106th East Avenue; **S.G. Hill**, 7509 East 27th Street.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **DENY** a **Variance** of the required distance from a church and from an R zoned district to operate a sexually oriented business. **SECTION 705. LOCATION OF SEXUALLY ORIENTED BUSINESS** - Use Unit 12a; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

Prt Lot 2, Beg. NW/c, thence E 150', S 270.91', W 150', N 90.93', SE/c, Lot 1, N 180', POB, Block 1, Memorial Oaks Addition, resubdivision Prt Lot 1, O'Connor Park 2nd Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17741

Action Requested:

Special Exception to permit a mobile home in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9, located 4008 West 55th Street.

Presentation:

The applicant, **Jose Elizalde**, 2417 East 5th Place, submitted a site plan (Exhibit B-1) and stated he would like to place a mobile home on the subject property. He explained that he chose the subject neighborhood because it is a good neighborhood. Mr. Elizalde stated he would keep the subject property neat and clean.

Protestants:

Margaret Bywaters, 2026 East 61st Place North, stated she owns the subject property and she does not want a trailer home placed on the subject site.

Edger Perry, stated he lives east of the subject property and the church that he attends abuts the back of the subject property. Mr. Perry, representing the homeowners of Southhaven, commented that the neighbors do not want a mobile home in the subject area. He expressed concerns that the mobile home will de-value his property. There are other alternatives for the applicant to live in the subject area. He pointed out that there is a mobile home area across the highway from the subject property. He stated that the applicant should park his mobile home in the mobile home area across the highway.

Comments and Questions:

Mr. White asked the applicant if he was aware that the subject property is owned by Ms. Bywaters and her brothers? After discussion with the protesting family, it was decided that Ms. Bywaters and her brothers did not own the subject property.

Protestants: (continued)

Lonnie Butler, Route 2, Box 128E, Sapulpa, stated he did not want a mobile home in the subject area. Mr. Butler commented that he grew up in the subject area and still owns the property at 3840 West 55th Place. He expressed the same concerns as Mr. Perry and suggested that the applicant either build a home on the subject property or move into a mobile home park.

Comments and Questions:

Mr. White stated that presently there is a couple of churches on the subject block where Mr. Elizalde would like to place the mobile home. He further stated that he did not see any mobile homes on the subject block, nor within one block of the subject property.

Protestants: (continued)

Emerson Penn, 4110 West 57th Place, stated he belongs to the church north of the subject property. Mr. Penn expressed the same concerns as previous protestants.

Applicant's Rebuttal:

Mr. Elizalde stated that the mobile would be temporary until he saves enough money to build a home.

Comments and Questions:

Mr. Cooper asked the applicant how long of time would he temporarily keep the mobile home on the subject property? He answered approximately 2 years.

Case No. 17741 (continued)

After discussion the Board determined that the neighborhood is somewhat fragile and although the neighborhood welcomes growth it would be injurious to allow a mobile home in the subject neighborhood.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **DENY** a **Special Exception** to permit a mobile home in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 9; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Lots 5, 6 & 7, Block 26, South Haven Addition Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17742

Action Requested:

Special Exception to permit a public school in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located SE/c 11th & Yale.

Presentation:

The applicant, **Jack McSorley** was not present.

Comments and Questions:

Mr. Beach informed the Board that a protestant requested a continuance to July 8, 1997. The protestant stated he received his notice late and was not able to accumulate his information before the hearing.

Mr. Bolzle asked Mr. Beach if there were problems with this application regarding setbacks and other issues? Mr. Beach answered affirmatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17742 to July 8, 1997, at 1:00 p.m.

Case No. 17743

Action Requested:

Variance of the required rear yard from 20' to 0' to permit an addition to an existing duplex dwelling. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a Variance of the required 30' frontage on a public St. or dedicated ROW to permit existing lots with frontage on a private drive. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 7, located SE/c 31st & Rockford Drive.

Presentation:

The applicant, **Warren F. Kruger**, 2100 South Utica, submitted a site plan (Exhibit C-1), Inspection Plat (Exhibit C-2) and stated that the application is for the properties located at 1508 and 1510 East 31st Street, (east of Peoria). He explained that he would like to go to a 0' setback. The subject property abuts City property, which is Zink Park beside Crow Creek. Mr. Kruger stated that the second variance is an administrative clean up for an already existing development. The property is very difficult to expand to the south due to a sewer line and the west does not have access for emergency vehicles. He explained that the direction toward the park would not provide a hardship for the neighbors since the neighbors are the City of Tulsa. The Parks Department has no problem with this proposal. Mr. Kruger submitted a letter of support from the Parks Department (Exhibit C-3) and letters of support from the neighborhood (Exhibit C-4). He informed the Board that he attempted to answer the neighbor's questions and to let the neighbors know of his intentions.

Comments and Questions:

Mr. White asked the applicant where the addition to the duplexes will be? Mr. Kruger stated that the addition will be on the east boundary for both duplexes.

Interested Parties:

Keith Franklin, 3135 South Rockford Drive, stated that there are a couple of issues he would like to make known to the Board. He explained that the subject development is not in compliance with RS-3 zoning. Mr. Franklin wanted the record to indicate that the rationale for the setback being changed from 20' to 0' is only because it abuts public park property, which there is no intention of the park property being developed. He stated that there are other areas in the neighborhood that may come into question at some point in the future and he would not like any approval to set a precedent for the neighborhood. This application is only for two lots, even though the plot plan shows all four lots in the subdivision. Mr. Franklin wanted the records to indicate that the street frontage would be waived for only the 1510 property. He questioned if the 1508 East 31st property's front yard is considered to be along 31st Street or along the private drive?

Comments and Questions:

After a lengthy discussion it was determined by staff that the property along 31st Street is a side yard and the rear yard is the east boundary, which is where the variance is requested.

Mr. Franklin expressed concerns with regard to the children in the neighborhood continuing to utilizing the private drive for safe access to the park. He requested that the applicant take this issue into consideration and to keep the driveways open for the children to use for a safe access to the park. He further requested that the applicant be respectful of the pedestrian passage that is in the right-of-way. Mr. Franklin stated he has no opposition to the request and only wanted the records to reflect the reasons for the setback.

Interested Parties:

Kathy Voight, 3145 South Rockford Drive, stated that she does not want a precedence set by allowing the variance request to 0' without a protest. She informed the Board that she is a Geologist and she has studied the Crow Creek Flood Plain for eight (8) years and she has also studied the impact of increased development on the Creek. Ms. Voight stated that this type of density is not compatible with the floodplain, however the duplexes are existing. The duplexes will be enhanced by the proposal and the addition of the 12' of concrete to the back is not a concern. She stated that what would be a concern in the future is to have to come back before the Board and state that a precedent had been set because the neighbors did not oppose the variance to a 0' lot line development in the same block.

Comments and Questions:

Mr. Beach stated that the two interior lots of the development do not have frontage. The lot split was created several years ago without a variance of the frontage requirement and the applicant is wanting to seek a variance at this time.

Mr. Dunham asked staff if the application will take care of the frontage problem? Mr. Beach stated that if the Board approved the application, the variance of the frontage requirement would apply to all four of the lots. The Board may want to limit the variance to only the two interior lots, which will be 1508 and 1510.

Mr. Bolzle asked the staff if frontage refers to front yard or that the lot must have a lot line that abuts a public street, which is greater than 30'? Mr. Beach stated that a lot must have a lot line that abuts a public street.

In response to Mr. White, Mr. Kruger stated that the City will have 5' of easement adjacent to the property.

Mr. White asked the applicant if he had any comments on the access to the park, which the interested parties were concerned with? Mr. Kruger stated that currently you can walk behind the property on the east side because it is a City park. The access on 31st Street has stepping stones instead of a sidewalk and it is not the best available access. He commented that there is some room to walk and you can access the park without walking in the street.

Mr. Bolzle asked the applicant what his proposal is for public access either along 31st or between the subject properties? Mr. Kruger stated that he cannot speak for the people who own the property on Rockford.

After a lengthy discussion the Staff and Board determined that the records can reflect that the applicant has offered to move the fence 3' back to allow an access to the park.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required rear yard for Lots 1508 and 1510 from 20' to 0' to permit an addition to an existing duplex dwellings. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** of the required 30' frontage on a public St. or dedicated ROW for Lot 1510 East 31st & 3117 S. Rockford to permit existing lots with frontage on a private drive. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 7, per plan submitted; subject to the Lot located at 1508 East 31st Street moving the fence back 3' to allow access to a public park; finding that the back of 1508 East 31st Street faces a public park and that the portion of the park nearest the duplex will not be developed; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Prt Lot 1, Peoria Acres Add., an Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit: Beg. at the NE/c of said Lot 1, TH S0°48'15"E along E line for 85.90', TH S89°59'47"W and along a party wall between the residences known as 1508 and 1510 E. 31st St for 86.55', TH N0°28'45"W for 85.90' to the N line of said Lot 1, TH due E for 86.06' to the POB, less and except the N 15' thereof for St. ROW, with the Wly 12' being subject to ingress/egress to residence units abutting driveway in place in said 12' and also described as 1508 East 31st St. AND Prt Lots 1 & 2, Peoria Acres Add., according to the recorded plat thereof, being more particularly described as follows, to-wit: Beg. at Pt. on the E line of said Lot 1, 85.90' S of NE/c thereof, TH S89°59'47"W and along a Residence Party-Wall for 86.55', TH S0°28'45"E

Case No. 17743 (continued)

for 8.65', TH on a curve to the right having a radius of 33' for 25.04', TH S43°29'23"E for 51.07', TH E for 62.00' to a PT on E line of Said Lot 1, TH N0°48'15"W and along said E line for 69.65' to the POB, with Wly 12' of the above described tract subject to ingress/egress to residence units abutting driveway in place in said 12' and also described as 1510 E. 31st St. AND Prt of Lots 1 & 2, Peoria Acres Add., according to the recorded plat thereof, being more particularly described as follows, to-wit: Beg. at a Pt. on E line of said Lot 1, for 202.55' S of NE/c thereof, TH W for 92.5', TH N for 15.2', TH W for 12.3', TH N for 63.8', TH N46°30'37"E for 0.00', TH on a curve to the Left having a radius of 33' for 7.99', TH S43°29'23"E for 51.07', TH E for 62.00' to a Pt. on the E line for said Lot 1, TH S0°48'15"E along said E line for 47.0' to the POB, NWly 12' of the above described tract being subject to ingress/egress to residence units abutting driveway in place in said 12' and also described as 3117 S. Rockford.

Case No. 17744

Action Requested:

Variance of the required 25' setback from rear property line to 14'. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 4103 East 53rd Place.

Presentation:

The applicant, **Gary W. Braswell**, 4103 East 53rd Place, submitted a site plan (Exhibit D-1) and a location map (Exhibit D-2). Mr. Braswell described his proposal as a one room 500 SF addition to the back portion of his property. The dimension is 20' x 25' and his intent is to maintain the esthetic appearance of the subject property plus enhance the value of his property. Mr. Braswell submitted a letter and petition that he circulated in his neighborhood explaining his proposal and signatures of support (Exhibit D-3). He described his property having huge trees throughout the yard, which makes it difficult to add an addition to anywhere except where he has indicated on his plans. The lot is an odd pie shape, which is very narrow in the front, very broad in the back and shallow in depth. He explained that the plans before the Board are the only logical way to add on an extra room without it looking out of place esthetically. Mr. Braswell informed the Board that any structure added onto the subject property has to be accessible for a wheelchair, therefore he cannot stay within the setback. The reason for the addition is to allow a place for his grandmother to live in. Mr. Braswell concluded that he felt he had adequately demonstrated that a hardship exists in the fact that the subject property is an odd shape, the landscaping, the architectural need designs that surround his disability and the architectural design of the house.

Interested Parties:

David Patrick, Councilor for District 3, stated that although this application is not in his district, the grandmother that the addition is for, does live in his district. He informed the Board that he is in total support of this application and commends the effort of Mr. Braswell on his presentation to the Board.

Comments and Questions:

Mr. Bolzle informed the Board that the average lot width for a RS-2 lot is 75' and the average lot width for this lot is 100'. The abutting neighbors would still have as much open rear yard with the proposed construction as they would with a typical 75' wide RS-2 lot. The number of mature trees prevents the relocation of the proposed addition to another part of the lot, which causes a hardship.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 25' setback from rear property line to 14'. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the average lot width for a RS-2 lot is 75' and the average lot width for this lot is 100'; the abutting neighbors would still have as much rear yard with 25' of depth as they would with a typical RS-2 lot and the number of mature trees prevent the relocation of the proposed addition to another part of the lot; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lot 6, Novell Woods Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17745

Action Requested:

Variance to permit parking in planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and a Variance of required number of parking spaces from 113 to 67. **SECTION 1202.D. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**, located 4728 Charles Page Boulevard.

Presentation:

The applicant, **Virgil Mitchell**, 13423 North Cincinnati, Skiatook, submitted a site plan (Exhibit E-1) and stated the application is on behalf of the church. He explained that he is before the Board to ask for the two variances requested.

Case No. 17745 (continued)

Comments and Questions:

Mr. Gardner informed the Board that the records reflect that the church was required to give additional right-of-way and when the church did this it put some of their existing parking in the City's right-of-way. Giving additional right-of-way is the primary reason the church is before the Board today.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit parking in planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and a **Variance** of required number of parking spaces from 113 to 67. **SECTION 1202.D. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**; per plan submitted; subject to a removal contract being filed of record; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lots 1-9, Block 1, Rayborn Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17746

Action Requested:

Special Exception to amend a previous condition of Board of Adjustment approval to allow storage of automobiles on northerly portion of property. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 6505 East 11th Street.

Presentation:

The applicant, **John R. Scott**, 2308 SE 28th, Suite 8, Bentonville, Arkansas, 72712, submitted a site plan (Exhibit F-1) and stated that when he was before the Board on May 13, 1997, he discovered that the property adjacent to the north of this site had recently been re-zoned to a CS classification. He commented that screening of the north lots would not be a requirement. Mr. Scott informed the Board that he made a mistake when he stated his client did not need to store vehicles on the north side of the building. He explained that his client intends to build an 8' privacy fence surrounding the area where vehicles will be stored. He described the storage area as being a dust free surface where the vehicles will be stored. Mr. Scott stated he attempted to contact the protestants who protested at the May 13, 1997 meeting, but he was only able to reach one protestant. The protestant he talked with was concerned with automobile transport parking and unloading on 10th Street. He

explained that his client does not own automobile transports and does not use automobile transports. He assured the Board that there will not be any junk cars stored on the north side. The 8' privacy fence will be secured, locked and screened from view of the property to the north of the subject site.

Comments and Questions:

Mr. Dunham asked the applicant if the proposed storage is across the street from the mini-storage? He answered affirmatively.

Mr. Gardner informed the Board that at the May 13, 1997 meeting, the applicant stated that the north lot would be for accessing the rear of the building, which will enable the client to perform light repairs to the vehicles for sale on the frontage. It would not be a repair garage in the sense that it is automobile repairs or heavy type of repairs. The applicant's client would have one access off of 10th Street on the northwest corner. Now the applicant is saying that there will be some cars that will be stored back there, but they will not be junk cars. Mr. Gardner asked the applicant what type of cars will be stored on the north lot? Mr. Scott stated the cars stored will be cars in preparation to be sold. He explained that his client purchases vehicles in town and then stores the vehicles until they are prepared for sale and moved to the retail end of the lot.

Mr. Gardner asked the applicant if his proposal is that the cars for sale will be in front of the building as proposed on May 13, 1997? He answered affirmatively.

Protestants:

David Patrick, City Councilor District 3, stated he met with the neighborhood and they are still concerned with the storage lot at the very back on 10th Street. He reminded the Board that the neighbors recently went through a storage lot across the street and the neighbors are concerned that this proposal will be the same scenario. Mr. Patrick stated that the neighbors are surprised that the applicant has come back after the neighbors thought they had a compromise worked out. The neighbors did not want storage in the first place and they were assured that the north lot would not be used for storing vehicles, but rather as an access. The residents are opposed to this proposal and are opposed to any vehicle storage on the north lot. Mr. Patrick stated that after the applicant has been in business for a while and proves to the neighbors that he does not park junk cars on his lot, then maybe the neighbors would be willing to consider storage on the north lot.

Bob Stefferman, 6738 East 9th Street, stated that before the May 13, 1997 meeting, Mr. Scott showed the neighbors the blue prints and the blue prints indicated that his client wanted an access road. The access road was to enable the cars to enter into the bays and that there would not be any cars parked outside of the bays. Mr. Stefferman stated that now the applicant wants to park old cars in the back of the lot. At the time of the first meeting there were two old cars in the back and Mr. Scott told him if the cars are not moved or taken care of the way they should be to give him a call and he would take care of it. Mr. Stefferman commented that Mr. Scott made a statement at the May 13, 1997 meeting that he could do things more than one way and that is what he is trying to do today by coming in the back door to request another variance. Mr. Stefferman expressed concerns that there will be more variances requested. He requested that the Board deny this request.

Applicant's Rebuttal:

Mr. Scott stated he did give his card to several people on May 13, 1997, and to this date no one has called him nor his client concerning any issues or concerns. He stated that his client is not a salvage yard operator and he is perfectly willing to be prohibited from ever using the subject location as a salvage yard. He explained that he thought that his client could perform his business operations there and not use the storage area, but he was incorrect. Mr. Scott stated that his client is more than willing to screen the north side even though it is not required under the Code. He commented that his client is more than willing to install an 8' privacy fence even though he is surrounded on the north by a mini-storage and on the east by industrial/commercial operation with no adjoining residentially zoned properties. There are residential properties nearby the subject site, however Mr. Stefferman does not live within the 300' radius of the subject site. Mr. Scott commented that to prohibit his client from using the subject property in a properly zoned manner, which he now has, is a violation of his client's right.

Comments and Questions:

Mr. Dunham stated that he is concerned with the statement of automobiles in preparation for sale? Mr. Scott stated that his client purchases vehicles that other individuals have traded in at new car dealerships, then repairs the vehicles for resale.

In response to Mr. Dunham, Mr. Scott stated that his client does not buy any vehicles with body damage nor any vehicles beyond a certain age or mileage limit. When his client buys vehicles from dealerships, he has to remove the cars immediately and from time to time his client will have vehicles in constant state of flux. The vehicles that are in the state of flux will be stored on the northside of the subject property in a fenced in area.

Case No. 17746 (continued)

Mr. Dunham asked the applicant how many days the vehicles will be stored and how many vehicles will be stored? Mr. Scott stated the vehicles will be stored for two (2) days and the number would vary dramatically. He guessed zero (0) to twenty (20) vehicles would be stored at any one time.

Mr. Bolzle asked the staff if there has been a zoning change of RS-3 to CS to the property across 10th Street to the north? Mr. Gardner stated that there was one lot in between the mini-storage on the east and the other business on the west, which was zoned residential and recently changed to commercial.

After a lengthy discussion the Board determined that there has been no substantial change in the conditions surrounding the property that would create a change in the conditions that the Board set forth on May 13, 1997.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **DENY** a **Special Exception** to amend a previous condition of Board of Adjustment approval to allow storage of automobiles on northerly portion of property. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Lots 5-8, E 20' of Lot 9, 12-18, Block 36, Sheridan Hills, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17748

Action Requested:

Special Exception to allow auto sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**; a Variance of required 300' from R district for open air storage or display of merchandise offered for sale. **SECTION 1217.C.2.** - Use Unit 17, and a Variance of off-street parking requirements for a catering business from 5 to 4. **SECTION 1214.D. USE UNIT 14 SHOPPING GOODS AND SERVICES, Off-Street Parking and Loading Requirements**, located 432 South Sheridan Road.

Presentation:

The applicant, **Rick West**, 1908 South 69th East Avenue, submitted a site plan (Exhibit G-1). Mr. West stated that he is in the restaurant business and the subject location was at one time a retail restaurant business. He explained that he has ceased doing retail business out of the subject property and is currently doing catering business only. He informed the Board that he had three employees including himself. The building has approximately 2,000 SF that is divided in half with both sides having entrances, rest rooms and exits. Mr. West stated he would like to rent half of the building out, along with the front parking lot, to a car sales company. He informed the Board that he has a potential renter (D&B Auto Sales). The potential renter will be selling cars only and there will not be any mechanical work done on the cars at the subject location. Mr. West requested the Board to grant this application to allow auto sales on the subject property.

Comments and Questions:

Mr. White asked the applicant to state his hardship for the granting of this variance? Mr. West stated that what is unique about the property is the fact that it is setup in a way that will accommodate car sales easily without remodeling.

After a lengthy discussion with the applicant it was determined that he meets the required parking spaces for the proposed car sales lot and the catering business.

Mr. Bolzle asked the applicant to state a hardship or explained what is unique about the subject property that the variance should be granted. He explained to the applicant that the Code states that any outdoor storage should be setback 300' from a residential district. Mr. West stated that the dealership is something that he thought would work very well on the subject property. He commented that his neighbors have not opposed the proposal and he has been located at the subject property for three (3) years. The neighbors know that he is a good neighbor and will keep the area clean.

Mr. White stated he did not recall seeing any used car sales on Sheridan between Admiral and 11th Street.

Mr. West stated that there are two (2) auto car sales and repair shops in the vicinity of 7th and 10th on Sheridan.

Mr. Dunham asked the applicant if he needed the variance for the off-street parking? Mr. West withdrew his request for a variance of off-street parking requirements for a catering business from 5 to 4.

Case No. 17748 (continued)

Mr. White asked the applicant if the Board was inclined to approve the proposal, would he be acceptable to the staff concerns that there be screening, no loud speakers outside, daylight hours of operation only and no automotive repair of any kind. Mr. West stated that the screening is currently in place and all of the other conditions are acceptable. The facility will not be set up for automotive repair and with the catering business on the subject property he would not want auto repair on the premises. The catering business will have customers coming in to pick up their orders and the subject property needs to be kept clean.

Mr. Bolzle stated that the argument that there are other automobile lots in the area is not the criteria for determining if this is an appropriate use. The Board looks at each individual application and determines if it is appropriate. Mr. Bolzle stated that he did not think that this application is appropriate because the lot is too small and it abuts a residential district with no buffer. There are residential structures to the north and across the street. There is no way to effectively police a lot this small.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-1-0 (Bolzle, Dunham, Turnbo, White, "aye"; Cooper "nays" no "abstentions"; none "absent") to **DENY** a **Special Exception** to allow auto sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**; a **Variance** of required 300' from R district for open air storage or display of merchandise offered for sale. **SECTION 1217.C.2. - Use Unit 17**, finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

Lot 1 & 2, Block 5, Sheridan Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17749

Action Requested:

Variance of the required parking spaces for outdoor/open-air display area from 221 to 30. **SECTION 1217.D. USE UNIT 17. SHOPPING GOODS AND SERVICES**; Off-Street Parking and Loading Requirements, located SW/c South 129th East Avenue and I-44.

Mr. Bolzle announced he will be abstaining from this application.

Presentation:

The applicant, **Jerry W. Ledford, Jr.**, 8209 East 63rd Place, submitted a site plan (Exhibit H-1). Mr. Ledford stated he is representing Palm Harbor Homes and the subject site is for a manufactured home sales facility with a sales office. There will be approximately 22 mobile homes on display. The hardship is that the subject site is approximately five (5) acres and based on the acreage, the required parking spaces would be 220. He explained that he reviewed other City's requirements in order to establish the 1 parking space per 5,000 SF for the first 50,000 SF and then 1 parking space per 10,000 SF for the balance of acreage. Based on the subject site and the requirements he utilized, the subject site would meet the required parking.

Comments and Questions:

Mr. Dunham asked the applicant if he would have a problem with limiting the use to Use Unit 17 only? He stated he did not have a problem with that limit, because Use Unit 17 is their only intended use.

Protestants:

Harold Pittenger, 11448 East 6th Street, stated he is not opposed to the proposal, but would like the Board to consider some attachments to the application in order to keep it esthetically in shape with the other mobile home sales in the area. He requested that the front be paved, only new mobile homes allowed and no storage of damage mobile homes are to be allowed on the site. He further requested that the new mobile homes be skirted and the frontage of the business be landscaped to comply with the other businesses in the area. Mr. Pittenger stated the subject site should have lighting to restrict vandalism and it should be limited to Use Unit 17.

Rick Honey, 433 South 127th East Avenue, stated his property is adjacent to the subject site. He requested that the hours of operation be limited to daylight hours and limit the lights, since he is adjacent to the property. Mr. Honey stated that there should be some kind of privacy fence. He expressed concerns regarding the drainage. He explained that the City of Tulsa recently directed the storm water run off onto the applicant's property. He stated he did not want the drainage to run back onto his property as it has done in the past.

Applicant's Rebuttal:

Mr. Ledford indicated that the front area will be paved with curbing and guttering. He stated that all of the parking in front will be paved. He informed the Board that to his knowledge the mobile home company does not have used mobile homes. Mr. Ledford reminded the Board that the application is strictly for parking, however he can address the issues the protestant's expressed. He stated he did not want the issues to be conditions of approval. The company's hours of operation are currently 8:00 a.m. to 8:00 p.m., Monday through Saturday and 11:00 a.m. to 6:00 p.m. or 8:00 p.m. on Sunday. The company has a full sales staff, a lot maintenance employee as well as a

decorator. There will be lighting on the subject property and the landscaping requirements will be followed. He explained that the company does not have any plans to place mobile homes along the residential sides and therefore there is no lighting planned for that area. The screening fence is a requirement to separate the industrial from the residential and that will be complied with. The drainage will come across the subject property and his client will accept the drainage. He explained that the drainage is carried through the site to the I-44 frontage road.

Comments and Questions:

Mr. White asked the applicant if the lighting will be directed inward and down, which will be away from residences? He answered affirmatively.

Ms. Turnbo asked the applicant if he would have a problem with limiting the hours of operation from 8:00 a.m. to 8:00 p.m., Monday through Saturday and 11:00 a.m. to 6:00 p.m. on Sunday? Mr. Ledford stated that his client has mentioned the Sunday hours may be 11:00 a.m. to 8:00 p.m. The company has not moved their full sales staff in at this time and they are not sure about the hours of operation.

Mr. Beach informed the Board that the use is by right in the IL district and the question is strictly the parking issue, the applicant is not asking for a use.

In response to Mr. Dunham, Mr. Ledford stated that the site plan has been changed and the application is not for a site plan approval. He explained that what is shown for open air display currently is approximately two (2) to three (3) acres. The company actually have five (5) acres and in the future there could be more mobile homes on the subject site. He stated he would not like to approve this application per site plan because of the above mentioned reasons.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 (Cooper, Dunham, Turnbo, White, "aye"; no "nays" Bolzle "abstentions"; none "absent") to **APPROVE** a **Variance** of the required parking spaces for outdoor/open-air display area from 221 to 30. **SECTION 1217.D. USE UNIT 17. SHOPPING GOODS AND SERVICES**; Off-Street Parking and Loading Requirements; subject to limiting the use to Use Unit 17 manufactured home sales, new manufactured homes only, finding that the proposal meets the new proposed standards for required parking (awaiting City Council approval); finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lot 1, Block 1, Skelly-Mayo Industrial Dev. an Addition to the City of Tulsa, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17750

Action Requested:

Special Exception to modify the parking, loading and screening requirements to permit the non-conforming parking, loading and screening resulting from changing the use from a lawfully existing office use to retail use in a CS district. **SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMITIES** - Use Unit 14, located 3815 South Harvard.

Presentation:

The applicant, **Mike Burdock**, represented by Charles Norman, 2900 Mid-Continent Tower, submitted a proposed plan (Exhibit J-1), an existing plan (Exhibit J-2) and photographs (Exhibit J-3). Mr. Norman stated that his clients own a specialty toy store in the 3700 block on South Harvard. He explained that his clients have purchased the subject property for relocating their toy store. He informed the Board that the attorney who handled the purchase of the subject property checked the zoning and found this property to be zoned CS. He stated that on this particular tract there is a building that was constructed in 1965 prior to the adoption of the parking requirements under the 1970 Zoning Code. The building has been used for office purposes in the past and his clients did not know that when they proposed to use the building for retail sales that it would trigger the parking requirements. Mr. Norman commented that he doubted if any of the businesses along Harvard actually conforms to the parking requirements under the new Code. He explained that the proposed site plan indicates removing some hedges and re-striping the parking lot. This will allow his clients to have a handicap accessible space and increase the number of spaces on the site to 19 parking spaces. The change in use will not change the appearance or the relationship of the property to the residential areas to the east. Mr. Norman stated that the change of the use will not adversely affect the existing or future uses of the adjacent properties.

Protestants:

None.

Comments and Questions:

Mr. Dunham asked the applicant if he would have a problem with the requirement that the hedging on the east end of the property be maintained? He stated that the east end hedging will be maintained.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzie, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to modify the parking, loading and screening requirements to permit the non-conforming parking, loading and screening resulting from changing the use from a lawfully existing office use to retail use in a CS district. **SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMITIES** - Use Unit 14, per plan submitted; subject to the hedge screening being maintained on the east property line; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

N 100', S 334.89', Lot 9, Block 4, Eisenhower 3rd, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17751

Action Requested:

Appeal from Code Enforcement Officer. **SECTION 1605. APPEAL FROM AN ADMINISTRATIVE OFFICIAL**, a Special Exception to permit fence/wall improvements exceeding height limitations. **SECTION 210.B.3. YARDS**, and a Variance of setbacks. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**, located 2140 East 30th Street.

Presentation:

The applicant, **John M. Freese & Roy D. Johnsen**, submitted a letter requesting a continuance to July 22, 1997, (Exhibit K-1).

Comments and Questions:

Mr. Beach informed the Board that the request for a continuance was a timely request.

Mr. White asked Mr. Schuller (protestant) if the July 22, 1997, continuance would be a problem for his client?

Protestants:

Steve Schuller, 320 South Boston, stated that the continuance would be a problem for his client and suggested a July 8th hearing. He informed the Board that the applicant is in violation from various Zoning Codes provisions and has been cited by the Code Enforcement Office. The violations have continued unabated and it is time to get the issue resolved. He stated that July 8, 1997, would be the last date his clients would be willing to consent to for a continuance.

Case No. 17751 (continued)

Comments and Questions:

Mr. White asked Mr. Beach if July 8, 1997, is available for this application? He answered affirmatively.

Applicant's Rebuttal:

The applicant, **Roy Johnsen**, represented by **Jack Freese**, stated that on July 8, 1997, Mr. Johnsen has a court setting that he cannot change. He commented that it is his understanding that Mr. Schuller has a commitment on July 22, 1997 and he understands that Mr. Schuller wants to be heard. Mr. Freese suggested that the application be continued to the next date, which is August 12, 1997. The obstruction that the protestant is concerned with has been removed.

Comments and Questions:

Mr. White asked Mr. Schuller if the August 12, 1997, date will be acceptable? He suggested that Mr. Freese could handle the presentation since Mr. Johnsen has a prior commitment.

Mr. Freese stated he is committed to a hearing in Creek County on July 8, 1997, with clients coming from outside of the United States and he will be unable to attend the July 8th hearing.

In response to Ms. Turnbo, Mr. Beach stated that the original request for a continuance was timely for July 8th, however Mr. Johnsen came into the office later to continue to July 22nd because of the conflict.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17751 to August 12, 1997, at 1:00 p.m.

Case No. 17752

Action Requested:

Variance of the required spacing of 110% of the height away from abutting R zoning for a PCS antenna supporting tower (130' tall monopole). **SECTION 1204.C.4.a. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES**, located NE of 101st Street South & South Delaware Avenue.

Comments and Questions:

Mr. Beach informed the Board that under the new tower ordinance, this application requires a special exception and not a variance. He stated that a hardship finding is not required for a special exception.

Presentation:

The applicant, **Stacy Saint/Western Wireless**, 7043 East 15th Street, submitted a site plan (Exhibit L-1) and photographs (Exhibit L-2). Ms. Saint stated that the subject property owner requested that the PCS tower be in the corner of his property, which is commercial. She indicated that the abutting property is a residential district (Creek Turnpike to the north and Jenks School to the east).

Comments and Questions:

Mr. White asked the applicant if the proposed tower will replace the existing tower? She stated the existing tower is a temporary tower and the proposed tower will replace the temporary tower.

Mr. White asked the applicant why the proposed tower will be in a different location than the temporary tower? She stated that the property owner is planning to develop a mini-storage on the subject property and he requested the tower be placed in the corner, which will enable the property owner to utilize as much of the land as possible for the mini-storage.

In response to Mr. Bolzle, Ms. Saint stated that Jenks is building a school that will abut the subject property on the east side.

Mr. Bolzle asked the applicant if the Jenks School property extends all the way to the mini-storage property line? She stated that the Jenks School property does extend to the mini-storage property line, which is zoned residential.

In response to Mr. White, Ms. Saint stated that she discussed the proposal with Dr. Ming, Assistant Superintendent of Development, and he did not see any concerns with the proposal. She commented that Jenks Schools is not planning to develop the property that far to the west.

Mr. White asked the applicant how tall the temporary tower is currently? She stated approximately 60'.

Interested Parties:

Mr. Charles Norman, 2900 Mid-Continent Tower, stated he represented the Jenks School District in the acquisition of the 50 acre plus tract. Mr. Norman reiterated that Dr. Ming has advised that there is no objection to the tower placement and the narrow neck of property that abuts the subject property is not planned for any future school use. There will not be any buildings under their Master Plan within the 130' distance that is requested for the PCS Tower.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a Special Exception of the required spacing of 110% of the height away from abutting R zoning for a PCS antenna supporting tower (130' tall monopole). **SECTION 1204.C.4.a. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES;** per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

A tract of land that is part of Lot 2, Block 1, River Creek Village, a subdivision of a part of the SW/4, SE/4, Sec. 20, T-18-N, R-13-E, I.B.M., Tulsa County, Oklahoma according to the recorded plat thereof, said tract of land being described as follows, to-wit: Commencing at the SE/c, Block 1, of said River Creek Village; thence N 00°01'45"W along the Ely line of Lot 3 in Block 1 for 220.00'; thence S89°58'15"W along the Nly line of said Lot 3 for 17.50' to the POB of said tract, thence continuing S89°58'15"W along said Nly line for 25.00'; thence N 00°01'45"W, parallel to the Ely line of said Block 1 for 16.00'; thence N89°58'15"E, parallel to the N line of Lot 3, for 25.00'; thence S00°01'45"E parallel to the Ely line of Lot 3, for 16.00'; the POB of said tract of land AND a 20' wide strip of land that is part of Lot 2, Block 1, River Creek Village, a subdivision of SW/4, SE/4, Sec. 20, T-18-N, R-13-E, E of I.B.M., Tulsa County, Oklahoma, according to the recorded plat thereof, the centerline of said 20' strip of land being described as follows, to-wit: Commencing at the SE/c, Block 1, of said River Creek Village, thence S89°58'15"W along the Sly line of said Block 1, for 160.00' to the POB, said point being 10' Wly of the SW/c of Lot 3, said Block 1; thence N 00°01'45"W parallel with and 10.00' Wly of as measured perpendicular to the Wly line of said Lot 3 for 230.00'; thence N89°58'15"E parallel with and 10.00' Nly of as measured perpendicular of the Nly line of said Lot 3 for 117.50' to the end point of the centerline of said 20' strip of land.

Case No. 17753

Action Requested:

Special Exception to permit a tent revival for 21 days in June, July or August in the years 1997, 1998 & 1999. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 2, and a Variance of the all weather surface requirement for off-street parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located NE/c Pine & Yale.

Presentation:

The applicant, **Anthony Smith**, 158 West 49th Place North, submitted a tent detail (Exhibit M-1) and a site plan (Exhibit M-2). Mr. Smith stated that the tent revival will not be for 21 days, but it takes a week to set up the tent and a week to remove the tent. He explained that he came before the Board approximately two (2) years ago on another location (Pine & Lewis). The previous site is under contract to be sold and it is necessary to find a new location. He explained that there will be two (2) services a day, one in the morning and one in the evening. The evening service ends at approximately 10:00 p.m. or 10:30 p.m. Mr. Smith indicated that the subject lot has twenty (20) acres and should not be a nuisance to anyone. He informed the Board that there is commercial property surrounding the subject site.

Comments and Questions:

Mr. White asked the applicant where the access will be for parking? Mr. Smith stated that there is access from Yale and Pine.

Ms. Turnbo asked the applicant if the public address system will be inside the tent or outside the tent? He stated the public address system will inside the tent and the tent will be back away from the road. Mr. Smith stated that he will furnish the port-a-johns according to whatever the Health Department requires.

In response to Ms. Turnbo, Mr. Smith stated that the morning service hours will be 10:30 a.m. to 1:00 p.m. and the evening services will be 7:30 p.m. and ends approximately 10:30 p.m.

Protestants:

None.

Case No. 17753 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "absentions"; none "absent") to **APPROVE** a **Special Exception** to permit a tent revival for 21 days in June, July or August in the years 1997, 1998 & 1999. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 2, and a **Variance** of the all weather surface requirement for off-street parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; per plan submitted; subject to Health Department approval; subject to public address system being restricted to the interior of the tent, with no outside speakers; and subject to hours of operation being 10:30 a.m. to 10:30 p.m.; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

SW, SW, S of RR, R/W, LESS W 50, thereof and Less S 200, SE, SW, SW, Sec. 27, T-20-N, R-13-E, 23.55 AC, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17754

Action Requested:

Special Exception to permit Church use in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2, and a Variance of the all-weather surface requirement to allow gravel parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 8815 East 101st Street.

Presentation:

The applicant, **Jack L. Spradling**, 1660 East 71st Street, representing the Haikey Chapel, submitted a site plan (Exhibit N-10 and stated the church has been located on the subject property since 1912. He indicated that the church would like to expand the building by 20' for class room space, however the church discovered they have never been approved for church use. Mr. Spradling described the parking lot on the subject property to be concrete, asphalt and gravel. He requested a variance on the all-weather surface and to allow gravel for parking.

Comments and Questions:

Mr. Dunham asked the applicant if the church plans to keep the gravel parking permanently or will they eventually asphalt or pave the parking area? Mr. Spradling stated the church has plans to pave the parking, but they are not sure when they will have the funds to do so.

Protestants:

Jerry Lawrence, 5227 South Harvard, stated he is constructing a home close to the subject church and parking lot. Mr. Lawrence expressed concerns with regard to the parking lot. He commented that he is concerned with sand and gravel being in the air and polluting the neighborhood. He explained that the developer of the abutting residential development has gone to great detail to ensure that the property is esthetically pleasing. The parking lot will abut a walking path that has a pond with a lighted fountain.

Applicant's Rebuttal:

Mr. Spradling stated that the pond that the protestant is speaking of is to the north of the subject property and the parking lot is on the south of the subject property. He informed the Board that there is 200' of grass space between the pond and the parking lot. He explained to the Board that the church's parking lot is small and usually only has approximately ten (10) to twelve (12) cars. The gravel that is currently on the parking area is not going to cause any problems. He explained that there is a green belt between the two (2) properties. The church gave the City an easement for drainage purposes. He indicated that the green belt is approximately 250' wide. He commented that the dust from the small parking lot should not create a problem with the green belt between the residential properties and the church.

Comments and Questions:

Mr. Gardner informed the Board that they may want to set a time limit on the gravel parking lot and reevaluate the issue in the future.

Mr. Spradling stated that the addition is approximately 20' X 50', which is roughly a 1,000 SF and there is no problem with the Board approving a size restriction.

Mr. Cooper asked Mr. Spradling if the church had any future plans to pave the parking area? He stated the church would like to pave the parking in the future, however the church is small and the financial sources are low. Mr. Spradling stated that the paving is on the list if funds ever become available.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit Church use in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2, and a **Variance** of the all-weather surface requirement to allow gravel parking. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; per plan submitted; subject to no further expansion of the site plan as submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

A tract of land in the SE/4, SW/4, Sec. 24, T-18-N, R-13-E, Tulsa County, Oklahoma, being more particularly described as follows: Beg. at the SE/c of said SW/4, thence S 89°37'01"W for 297.00'; thence N 00°01'38"W for 440.00'; thence N 89°37'01"E for 297.00'; thence S 00°01'38"E for 440.00' to the POB, 3.00 AC., City of Tulsa, Tulsa County, Oklahoma

Mr. Bolzle out at 3:37 p.m.

Case No. 17755

Action Requested:

Review and approve an amended site plan that was previously approved BOA #16774 9/13/94. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 5649 South Garnett Road.

Presentation:

The applicant, **Dell Wilson**, represented by Keith Rayben, 5649 South Garnett, submitted a site plan (Exhibit O-1) and a plot plan (Exhibit O-2). Mr. Rayben stated he is representing the HOW Foundation. Mr. Rayben explained that the HOW Foundation is an adult alcohol/drug rehabilitation center. He stated that HOW has been located on the subject site for approximately 17 years. Mr. Rayben explained that the amendment to the site plan is needed in order to add on a laundry room. He stated the HOW Foundation has outgrown their capacity to serve the residents and the laundry room is necessary to improve the situation. The laundry room will be a private laundry room and will not be opened to the public. The proposal is a small attachment to the existing building and will have the same effacement. Mr. Rayben indicated that the addition will be east of the existing buildings and will be within the property lines.

Case No. 17755 (continued)

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** amended site plan that was previously approved BOA #16774 9/13/94. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; per plan submitted; finding that the use will not be injurious to the area, on the following described property:

A tract of land lying in the SW/4, Sec. 32, T-19-N, R-14-E, Tulsa County, Oklahoma, said tract being more particularly described as follows, to-wit: Commencing SW/c, said SW/4; thence N°01'24"E, 1975.31'; thence S89°55'31"E, 50.0' to the POB; thence S 89°55'31"E 210.00' thence S 0°01'24"W, 211.98'; thence N 89°55'31"W, 210.00'; thence N 0°01'24"E, parallel with the W line of said SW/4, 211.98' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17758

Action Requested:

Variance from the required 200' setback of an outdoor advertising sign from an abutting RS-1 district to 100'. **SECTION 1221.F. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**, located 17345 East Admiral Place.

Presentation:

The applicant, **Stephen A. Schuller**, represented by Malcolm Rosser, 321 South Boston, Suite 500, submitted a site plan (Exhibit P-1) and photographs (Exhibit P-2). Mr. Rosser stated that Mr. Schuller originally filed this application and then realized he represented the property owner across the interstate. Mr. Schuller decided to withdraw as legal representation for the applicant and requested Mr. Rosser to represent the applicant. Mr. Rosser stated that his client would like to erect a sign on the subject property. He indicated that the property is unique due to the fact that it is near the intersection of Admiral Place and Lynn Lane. The subject property abuts I-44 on the north and there is no present off ramps at Lynn Lane, which is a section line road. He explained that the right-of-way does anticipate ramps in the future, however presently there are no off ramps. He described the subject property as being narrow (165' wide) and as a result it is physically impossible to maintain the 200' setback requirement from a residential area. Commercial property is prevalent in the northwest corner of Admiral Place and Lynn Lane, which will deter the chances of residential development in the area. Mr. Rosser commented that allowing the proposed sign to be erected will not be injurious to the neighborhood. He indicated that there are several signs along the I-44 and the exception narrowness of the property imposes a hardship.

Case No. 17758 (continued)

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** from the required 200' setback of an outdoor advertising sign from an abutting RS-1 district to 100'. **SECTION 1221.F. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

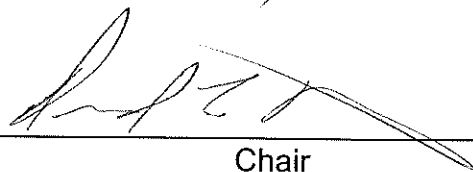
A tract of land described as follows: Beg. 660.0' W, SE/c, Lot 1, Sec. 2, T-19-N, R-14-E, I.B.M., Tulsa County, Oklahoma, according to the U.S. Government Survey thereof; thence W 165.0'; thence N 660.0'; thence E 165.0'; thence S 660.0' to the POB, less that portion deeded for roadway purposes, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Mr. Gardner announced that he will be retiring effective August 1, 1997.

There being no further business, the meeting was adjourned at 4:00 p.m.

Date approved: July 22, 1997



Chair

