

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 733
Tuesday, August 26, 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
Dunham	Bolzle	Beach	Ballentine, Code
Turnbo	Cooper	Huntsinger	Enforcement
White, Chair		Stump	Parnell, Code
			Enforcement
			Romig, Legal
			Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, August 22, 1997, at 8:57 a.m., as well as in the Reception Area of the INCOG offices.

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

Comments and Questions:

Mr. White informed the audience and applicants that normally the Board consist of five (5) members. He explained that there are only three (3) members of the Board present today, which is the minimum number required for a quorum. He further explained that by the rules and regulations set up for the Board, in order for a motion to pass, all three (3) members must vote for a motion in an unanimous gesture.

UNFINISHED BUSINESS

Case No. 17784

Action Requested:

Special Exception to allow Use Unit 28 in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 28, located 10601 East Ute Street.

Presentation:

The applicant, **Continental Paper**, represented by **Lynnda Steenslid**, 10601 East Ute Street, submitted a proposed plan of action (Exhibit A-1), a site plan (Exhibit A-2) and photographs (Exhibit A-3). Ms. Steenslid stated that Continental Paper Recycling opened their business in March 1996 in an IM zoned district. The Paper company would like approval of Use Unit 28 so that the company can allow some outside storage of processing materials. She explained that the company is a paper and aluminum recycling facility. Fifty percent of the volume received comes from area haulers, which is loose cardboard and newspaper. The construction of the facility, which was approved previously, has an extension on the conveyor belt that goes outside into an area where the loose materials are dropped. When the material is dropped it is then sorted and pushed onto the conveyor belt where it is baled and compacted into 1300 lb. bales. The bales are later shipped out and sold as a product. Ms. Steenslid acknowledged that there have been some issues with the adjoining properties concerning the materials being outside of the companies' bounds. She stated that the company has completely fenced their facility and has addressed every issue that has come forward the company has addressed. The west side is where the loose material is dropped and a 12' high fence that is approximately 120' long was installed. The fence is metal on one side and a wood facing on the side that faces the neighbors. The back corner of the property has a chain link fence and concrete barriers, which is where the company has had some problems and needs to extend the metal fence. The property has been fenced in the front to prevent papers from floating around and the grounds are picked up regularly during the day. Ms. Steenslid commented that if you drove by the facility you would not be able to identify that there is a paper facility that processes up to 2,000 tons a month of waste paper. It is Ms. Steenslid's opinion that the recycling facility has not been negligent in satisfying the concerns of the neighbors. Ms. Steenslid stated that the facility receives 50 to 100 tons a day of waste paper in the area and the service provided to the community is significant. She explained that the material being dropped on the floor outside is necessary because of the volume levels involved. It is not feasible for the facility to move the materials inside because there is other processing going on inside.

Comments and Questions:

Mr. White asked the applicant if she has met with the neighbors? She stated she has met with the neighbors on three (3) or four (4) occasions. She explained that the biggest concern of the neighbors has been the west side of the facility.

Mr. Dunham asked the staff who provided the August 11th photographs (Exhibit A-7). Ms. Turnbo stated that Mr. Ballentine, City Code Enforcement, provided the photographs from August 11, 1997.

Ms. Steenslid stated she has been in contact with Mr. Ballentine and the facility has been cooperative with the City.

Case No. 17784 (continued)

In response to Mr. White, Ms. Steenslid stated that the west side is baled material and is not conducive to blowing materials. The east side is where the loose materials are located.

Mr. White asked the applicant for the date of her photographs (Exhibit A-3)? Ms. Steenslid stated that the photographs were taken August 25, 1997.

In response to Mr. White, Ms. Steenslid explained that operationally there were some issues that are no longer a problem since a change in management personnel.

Protestants: the following requested the Board to deny Case 17784:

Doyle West, Matrix Service Company, 10701 East Ute Street, submitted photographs (Exhibit A-6) and a petition (Exhibit A-4); **Ron Wilson**, Love Envelopes, 10733 East Ute & 10724 East Ute; **Ron Henderson**, 1643 East 15th, representing the Wolf Point Owners Association; submitted a letter of protest (Exhibit A-5).

The following concerns were voiced by the protestants:

Blowing cardboard, paper, styrofoam and various paper related items being dumped externally within the driveway of the facility; repeated complaints to the facility before any action is taken to control the loose paper products; noise pollution from the large trucks dumping products outside and disrupting other businesses activities; 8' high fence does not contain the trash and paper that continues to blow onto the adjacent properties; the frontal part of the subject property is partially enclosed with construction netting, which does not contain loose paper; 20' high fence would not contain loose paper from being blown over to adjacent properties; the property is not cleaned daily; health concerns due to wet and mildew products in the driveway; unsightly construction netting used as a fence; subject property is unsightly and hinders showing adjacent facilities to potential customers; littering adjacent properties when the wind blows; difficult to sell vacant land across the street from the subject property due to the visible trash.

Applicant's Rebuttal:

Ms. Steenslid stated that the original application explained the operation of the facility and there have been no changes made in the operational process. She commented that she was surprised to learn that the adjacent neighbors are upset with the facility. She reiterated that the fence is at least 10' if not 12' high. She indicated that there are trucks coming and going into the facility that do create some degree of noise, however this is an industrial area. She stated that the metal fence was erected to help eliminate the noise factor. Ms. Steenslid expressed the opinion that the facility has not been negligent in addressing the noise issue. The construction fence installed out front was to contain paper in the parking lot area. She reiterated that a crew does try to keep the grounds picked up daily. Because of the nature of their business, it will be assumed that any piece of paper found in the area came from the recycling facility.

Case No. 17784 (continued)

She pointed out that the business immediately to the west of the facility has open drop boxes in front of their building and the drop boxes overflow. Ms. Steenslid concluded that she is surprised that the facility has not heard more from the association in trying to work the issues out, instead of coming to the hearing as a protestant.

Comments and Questions:

Mr. Dunham asked the applicant how long the facility has been located at the subject property? She stated that the facility opened February or March of 1996.

In response to Mr. Dunham, Ms. Steenslid stated that nothing has changed with the processing and the construction plans included a conveyor pit that went outside. The implication of the site plan would be that the facility would be receiving material and pushing it on the belt.

Ms. Turnbo asked the applicant how long the materials set outside before being put on the conveyor belt? She stated that the materials are baled daily and it is an on going process. She explained that there have been days that the baling has not been done daily, but from an operational flow stand point it does no one any good to let it stand.

Mr. White asked the applicant if the trucks are carrying closed lid containers? She stated that the trucks have closed lid containers or tarped containers.

Mr. White asked if the problem with the trash carrying over to neighboring properties is when the trucks dump their load in the open air? She stated that it could occur at that time if the wind picks up. She indicated that with the chain link fence and barriers there has not been as much spillage next door.

In response to Mr. White, Ms. Steenslid stated that it would be uncommon to receive trucks indoors for loading and unloading. She explained that she has been in the business for 20 years and all of the recycling facilities she has worked at have had an outdoor drop area for their bulk grades of paper.

Ms. Turnbo commented that the subject property is unsightly and no matter how high the fence is built the paper will still be picked up by the wind. The facility needs to contain the paper by being enclosed.

Case No. 17784 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **DENY** a **Special Exception** to allow Use Unit 28 in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 28; 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:

Ely 300', Lot 14, Block 1, Wolf Point Industrial Parkway West, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17795

Action Requested:

Special Exception to use the site for an electric sub-station. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 4, located 96th Street & Yale Avenue.

Presentation:

The applicant, **Kevin C. Coutant**, representing PSO, 320 South Boston, submitted site plans, maps and photographs (Exhibit B-1). Mr. Coutant requested a continuance since there were only three (3) Board members in attendance.

Comments and Questions:

After discussion, it was determined that the Board continued Case No. 17795 so that Mr. Coutant could meet with the neighbors surrounding the subject property. Mr. Coutant has met with the neighbors and does not know of any reason why he would need to meet with the neighbors again. He commented that he is ready to have the case heard, but would rather have all five (5) Board members present. The neighbors to the subject property stated that they have met with Mr. Coutant and this is the second time they have taken off work to attend the hearings. The neighbors indicated that they would like the case heard today.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **DENY** a continuance of Case No. 17795.

Presentation:

The applicant, **Kevin C. Coutant**, representing PSO, 320 South Boston, stated that the subject site was chosen by PSO because of its unique positioning in the subject community. The engineering study indicates that there is a need for a substation at the 101st & Yale area. He explained that the reason the subject site was deemed a good location is because there is a turnpike on the southerly boundary, a transmission line on the northerly boundary and a flood plain area on the northerly boundary. There is a substantial distance between the surrounding residences and the substation (80 yards to the east and 200' to the west). He stated that the meeting with the neighbors was good, however the neighbors did not leave the meeting feeling that the subject site was a good location for the substation. Mr. Coutant informed the Board that the site plan submitted today is an alternative site plan (Exhibit B-1). The location of the substation has remained the same but the approach to the substation has been changed. The drive is now arching and it allows planting of substantial number of trees and allows construction of a berm to the north side of the drive. Visually from the east this will be responsive to some of the neighbors concerns. The area will also be landscaped with 21 trees that are at least 8' in height. Mr. Coutant stated that PSO will address the aesthetic concerns of Mr. Barnes (north of the subject site), however the north boundary is a flood-way and there are existing transmission lines. He explained that the landscaping on the north side will have to be approved by Storm Water Management. Along Canton there will be low-lying shrubs for dressing up the street frontage behind the split rail fence. He stated that the neighbors had concerns with regard to the maximum height of the structures on the site and particularly the closest structures to the northerly property line. The maximum structure will be 40' in height, which are poles with a cross member that will receive the transmission line and then into the substation. The structures will be at least 45' from the property line, which meets the requirement of 110% setback. Mr. Coutant explained that once the substation is built, then the traffic on Canton will diminish. He stated that the substation will not be staffed and a van or truck will come by once a week to check the substation.

Comments and Questions:

Mr. White asked the applicant how long the construction process will be on the substation? He stated that the substation will be built in two phases, the first phase will be done in approximately three (3) months in the fall. The completion of the facility and installation of the equipment will take approximately two (2) months in the spring.

Protestants: The following protestants expressed the same concerns:

Jim Barnes, 5110 East 93rd; **Dave Lynch**, 9511 South Canton, submitted photographs (Exhibit B-2); **Bob David**, 9505 South Canton.

Protestants: Concerns:

Installing power poles in neighbor's pasture, substation will be 20' into Mr. Barnes property; alternate sites available; safety for the children in the neighborhood; City of Tulsa and the Turnpike Authority promised that the land from the off ramps would only be residential; subject site is too narrow; de-value undeveloped land; the site is on the 9500 block of South Canton and not on Yale Avenue; the proposed application will be the third (3) public project to directly affect the property values and the landscaping of the area; the proposed fences are not barriers but deterrents; the application is not in the best interest of the neighborhood; aesthetically unappealing (immature trees, white gravel, chain link fences vs. privacy fences); setting a precedence; PSO has not maintained the property since they have purchased the property; minimum qualifications of a special exception are not met; cannot meet or control the screening on the north side of the subject site; the substation will be on the top of a hill to be viewed by the neighbors to the north and east; no commercial zoning was permitted along the turnpike from Sheridan to Delaware; the substation is an intrusion upon the neighborhood; 40' structure exceeds the height limitation of an RS-1 district; subject site will be located on a dead-end street and will cause potential danger to the children in the neighborhood; PSO sold a site at 101st & Yale in lieu of the subject site, which would be a better option due to cost; the previous site was in a commercially zoned district and PSO would not need a special exception.

Applicant's Rebuttal:

Mr. Coutant stated that the sale price of the property located at 102nd & Yale and the subject property purchase prices were equivalent. He commented that he has made progress with the Storm Water Management and they generally agree with the concept plans presented. From the zoning perspective he disputes that this application is a commercial development. Mr. Coutant stated that he is not familiar with any agreements made by the Turnpike Authority or the City of Tulsa. Mr. Coutant informed the Board that this is a required public facility that has to go somewhere and the subject site is the best place for the substation. Mr. Coutant reiterated that the proposed trees will be 8' in height. He commented that everyone that has protested this application looks down on the subject site, which is not on top of a hill. The subject site is in a location where, to the north, the turnpike is below grade. PSO believes that the subject site is a responsible location and the characterization of site being on top of a hill does not hold up under the facts.

Comments and Questions:

Mr. Dunham stated that this is a type of facility that no matter where it is located there will be opposition. He commented that looking at the site, considering the expressway on the south and the general character of the neighborhood, it would be hard to find a better site to locate. Mr. Dunham concluded that he is sympathetic to the neighbor's concerns, but PSO has done what they can to address the concerns.

Case No. 17795 (continued)

Ms. Turnbo stated that the Board has to make hard decisions and she does understand the neighbor's concerns.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to use the site for an electric sub-station. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 4; per alternative plan; subject to Storm Water Management approval; subject to the improvements per the alternative site plan and the landscaping per the alternative site plan; subject to the landscaping and screening requirements; 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:

E. 500', N 462', S 792', W 1083.15', SW/4, NW/4, Sec. 22, T-18-N, R-13-E, IBM, Tulsa County, Oklahoma, according to the US Government Survey thereof; LESS and EXCEPT a tract deeded for highway purposes, more particularly described as follows, to-wit: Commencing at the SW/c; thence Nly along the W line for 330.00', POB; thence Ely for 1,084.47'; thence Nly for 193.65'; thence N88°39'44"W for 131.57'; thence N 81°32'11"W for 813.85'; thence N09°34'07"W for 128.59'; thence Wly for 131.17' to a point on the W line; thence S for 462.00' to said POB, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17799

Action Requested:

Appeal from the decision of the Code Enforcement Officer that property cannot be used for storage of vehicles. **SECTION 1606.A. INTERPRETATION** - Use Unit 11, located 13th & Harvard.

Comments and Questions:

Mr. Beach informed the Board that a continuance was requested by a protestant (Jim Rainey) who could not be present at today's hearing due to being out of State.

Case No. 17799 (continued)

Presentation:

The applicant, **Paul E. Swain**, 500 Oneoak Plaza, stated that he did not have a problem with the application being continued to September 23, 1997 at 1:30 p.m.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **CONTINUE** Case No. 17799 to September 23, 1997, at 1:00 p.m.

Case No. 17800

Action Requested:

Variance of the square footage for an accessory building from 750 SF to 1200 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 504 East 48th Street North.

Presentation:

The applicant, **Bennie & Cynthia Burris**, 504 East 48th Street North, submitted a site plan (Exhibit C-1), stated she would like to build an accessory building in the back yard. She explained that the accessory building will be large enough to store their cars inside and provide a place for her husband's hobby of refurbishing old cars. Ms. Burris stated that she plans to landscape around the garage and improve the subject area.

Comments and Questions:

Mr. White asked the applicant if she planned to have a commercial business in the accessory building? She answered negatively.

Mr. White stated that there are several oversized buildings in the subject area and this application is on a corner lot.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Variance** of the square footage for an accessory building from 750 SF to 1200 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to there being no commercial business located in the accessory building; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 15, Block 7, 3rd Addition Suburban Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17801

Action Requested:

Special Exception to allow church and accessory uses on contiguous property. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; a Variance to allow parking in the required front yard. **SECTION 1202.C.5.b. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; Use Conditions;** a Variance to allow an existing and proposed structure within 44.8' setback. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** and a Variance to allow temporary gravel drive. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS,** located 6621 East Latimer Place.

Presentation:

The applicant, **Bryon D. Salsman**, 1717 South Baltimore, submitted a site plan (Exhibit D-1), and stated that he is representing Greater Heights Assembly Church. Mr. Salsman explained that the existing church never received a special exception to allow church usage in the RM-1 & RS-3 zoned districts. He stated that it also came to his attention that the U shaped building was built approximately 2 1/2" over the line and he would like to request a variance to bring this into compliance. The Church would like to build a new structure that aligns with the existing structure. The new sanctuary structure will be east of the existing U shaped building. He explained that the gravel drive is strictly for convenience and is not required by Code. Mr. Salsman stated that the gravel drive will be removed in approximately five (5) years when the church builds an activity building. He suggested that the Church install chips that harden much like a paved drive.

Comments and Questions:

Mr. White asked the applicant why the gravel drive will have to be removed in approximately five (5) years? Mr. Salsman stated that the next building to be constructed will be an education/activity building immediately east of the new proposed structure and the future new drive and parking will be built along the east property line. He explained that the house and gravel drive will be removed when the future building and drive are constructed and the new drive will augment other parking. Mr. Salsman submitted photographs (Exhibit D-2). He explained that the front yard variance was requested to allow six (6) parking spaces in the southwest corner, which exceeds the setback requirement from the residential property.

In response to Mr. White, Mr. Beach stated he has not discussed the staff recommendations with the applicant. He informed the Board that there are several issues that have not been addressed, according to the site plan submitted, and perhaps there should be a continuance to allow the applicant to review his site plan. If the Board is inclined to approve the request it should not be approved per site plan and the Board should require that the applicant return with a detailed site plan.

Case No. 17801 (continued)

In response to Mr. Beach, Mr. Salsman stated that he has a full set of working drawings, which has a landscape plan showing the City required landscaping. He did not realize he would need the plans for today's meeting. He explained that the Church has been in existence for several years and has used the north entrance to 67th East Avenue for years. The entrance is gated and locked after hours to keep traffic from coming into the Church parking lot. Mr. Salsman concluded that the previous owner of the Church had the existing access to 67th East Avenue and the current Church has been using the access for five (5) years.

In response to Ms. Turnbo, Mr. Romig stated he is not comfortable with denying access on 67th East Avenue after using the access for several years.

Ms. Turnbo stated she would like to see the detailed site plan with a landscaping plan.

Mr. Stump informed the applicant that if the parking on the north boundary is new, they will have a screening fence requirement between this new parking and the abutting residence.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to allow church and accessory uses on contiguous property. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; a **Variance** to allow an existing and proposed structure within 44.8' setback. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; and a **Variance** to allow temporary gravel drive. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; subject to submitting a detailed site plan with the landscaping and the SF of the previous building and proposed structure; subject to a three (3) year limitation for the gravel drive; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 9 AND the W 71' of Lot 8, Block 3, Aviation View Addition, City of Tulsa, Tulsa County, Oklahoma.

AND

Board Action:

On an **AMENDED MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **CONTINUE** the balance of Case No. 17801 to September 9, 1997, at 1:00 p.m.

Case No. 17802

Action Requested:

Special Exception to modify a previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 3613 South Hudson.

Presentation:

The applicant, **Fritz/Bailey, Inc.**, represented by **Ted Bailey**, 4200 East Skelly Drive, submitted a site plan (Exhibit E-1) and stated he is representing Wade Phillips School for the Tulsa Public Schools. Mr. Bailey explained that he is proposing to remove two (2) temporary structures that currently house classrooms. The classrooms will be replaced with permanent classrooms and a media center.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to modify a previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

A tract of land in the SE/4, Sec. 22, T-19-N, R-13-E, I.B.M., Tulsa County, Oklahoma, according to the US Government Survey thereof, being more particularly described as follows: Beg. at a point 85' E, NW/c, of said SE/4; thence S 500'; thence E 670'; thence N 500'; thence W 670' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17803

Action Requested:

Special Exception to allow a home occupation (beauty shop) in an RS-3 district. **SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS**, located 6048 South 30th West Avenue.

Presentation:

The applicant, **Robert L. Reid**, 6048 South 30th West Avenue, submitted a site plan (Exhibit F-1) and stated he would like to establish a beauty salon at his residence for his spouse. He explained that his spouse works full-time at another job and the beauty salon will be a part-time job. There will be no more than five (5) to ten (10) customers per week and there is ample parking in the driveway for the customers. He informed the Board that the beauty salon will be by appointment only and there will be no walk-ins. Mr. Reid stated that there are vacant lots surrounding his property and there should not be any hardships imposed on his neighbors.

Comments and Questions:

Ms. Turnbo asked the applicant what the days and hours of operation will be for the beauty salon? Mr. Reid stated that his spouse works full-time during the day and he works evenings. His spouse will work between 6:00 p.m. and 9:00 p.m., with appointments on Saturday.

Ms. Turnbo asked the applicant what the Saturday hours of operation will be? He stated that Saturday hours will be 9:00 a.m. to 5:00 p.m. He explained that there will not be any appointments on Sunday.

Mr. Dunham asked the applicant if he understands the Home Occupation Guidelines? He answered affirmatively.

Ms. Turnbo asked the applicant if he understands that he cannot have tanning beds in the beauty salon and there cannot be anyone from the outside hired to work in the beauty salon? He stated that he understands all of the restrictions.

Interested Parties:

Betty Cartwright, 5909 South 31st West Avenue, submitted a petition opposing the beauty salon (Exhibit F-2). Ms. Cartwright stated that the neighborhood is a very old neighborhood and the streets are narrow without curbs. She explained that another beauty shop is not warranted because there is a beauty shop in West Highland Plaza two (2) blocks away and a another beauty shop approximately three (3) blocks away. She expressed concerns with the traffic increasing on the narrow streets and setting a precedent for the area to become a commercial area. Ms. Cartwright stated that the entrance and exits to the subject neighborhood are limited. She requested the Board to deny this application and keep the neighborhood strictly as a residential neighborhood.

Case No. 17803 (continued)

Applicant's Rebuttal:

Mr. Reid stated that the four (4) lots directly east of the subject property have been purchased by A.C. Carrs and he plans to build a residential home on the lots within one (1) year. All of the neighbors on 30th West Avenue have stated that this application would not be a problem. He stated that there is not a lot of traffic up and down 30th West Avenue and his is the first house off 61st Street. He explained that the customers will come from 61st Street and leave the same direction. The customers will not be going through the neighborhood.

Comments and Questions:

Mr. White stated that the subject lot is a 100' wide and there is plenty of parking available.

Ms. Turnbo stated that there is parking provided in the driveway.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to allow a home occupation (beauty shop) in an RS-3 district. **SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS**; subject to the week day hours being 6:00 p.m. to 9:00 p.m., Saturday from 9:00 a.m. to 5:00 p.m.; subject to 15 minutes between appointments so that there is one appointment at the beauty shop at any given time; subject no tanning beds in the beauty shop; subject to no outside employees; subject to all customers must park in the driveway; 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:

Summit Parks, Block 3, Lot 18 AND S 25', Lot 19, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17804

Action Requested:

Variance of the required 60' setback from the centerline of street to 55.2' for an addition to an existing non-conforming structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2245 East 23rd Street.

Case No. 17804 (continued)

Presentation:

The applicant, **Michael D. Carter**, withdrew his application.

Case No. 17805

Action Requested:

Special Exception to allow an existing auto body repair shop in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 439 South Sheridan Road.

Presentation:

The applicant, **Merl A. Whitebook**, requested a continuance because he will be in trial until September 17, 1997.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **CONTINUE** Case No. 17805 to September 23, 1997, at 1:00 p.m.

Case No. 17806

Action Requested:

Special Exception to allow Christmas tree sales in an R/CS district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, a Variance of 100' setback from centerline of 41st St for temporary building and outdoor sales. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, a Variance of the setback from an R district. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**; a Variance to allow a building across lot lines and a Variance of the time limit to 11-1-97 thru 12-31-97 for 3 years. **SECTION 1202.C.1. USE UNIT 2. AREA WIDE SPECIAL EXCEPTION USES**; Use conditions, located SE/c East 41st Street South & South Harvard.

Comments and Questions:

Ms. Turnbo asked the applicant what is different from the present application and the one approved previously? Mr. Johnsen stated that there is little difference except for two (2) small exceptions.

Presentation:

The applicant, **Roy D. Johnsen**, 201 West 5th, Suite 440, submitted a site plan (Exhibit G-1) and stated he attached the standards that were imposed at the last approval. He explained that the minutes from the previous approval states that Thanksgiving Day is the beginning of sales and November 1 to set up the lot. He stated that Thanksgiving Day keeps getting later in the month and closer to Christmas. Mr. Johnsen stated that the owner of the lot would like to start selling Christmas Trees on November 22nd. He explained that once the trees are in place, people begin to stop and he does not want to be in violation of selling trees too soon. Mr. Johnsen stated that there is a covered tree storage area, which should be 30' west of the east boundary and the owner has been doing this. He explained that it was imposed by the Board to move the covered tree storage area 30' west, however it was not in the minutes.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to allow Christmas tree sales in an R/CS district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, a **Variance** of 100' setback from centerline of 41st St for temporary building and outdoor sales. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, a **Variance** of the setback from an R district. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**; a **Variance** to allow a building across Lot lines and a **Variance** of the time limit to 11-1-97 thru 12-31-97 for 3 years. **SECTION 1202.C.1. USE UNIT 2. AREA WIDE SPECIAL EXCEPTION USES**; Use conditions; per site plan; subject to three (3) years; subject to the following requirements: November 22 through Christmas Eve; sales 8 a.m. to 10 p.m. Sunday through Wednesday, 8 a.m. to 10:30 p.m. Thursday through Saturday, all activity except security to cease at 11 p.m.; no construction of sheds, tents or other temporary facilities prior to November 1 and removed no later than January 1 except on-site storage of two cashier buildings, a drill shed and a coffee building permitted and all construction during daylight hours only; tree unloading during daylight hours only; stockade fence maintained along east boundary of easternmost tree storage area; flood lighting limited to two (2) lights along 41st and two (2) lights along Harvard directed downward; other pole lights limited to 175 watt mercury vapor not over 25' high, not located within 75' of east boundary of site and if located within 120' of east boundary, shall be turned off no later than 9 p.m.; customer parking as follows: 12 spaces @ north boundary of principal sales area, 7 spaces @ east boundary of principal sales area, 14 spaces @ south boundary of principal sales area, 20 spaces @ north boundary of flocked tree sales area; not less than 40 employee parking spaces located on abutting tract to the south; subject to the covered tree area is to be 30' to the west of the east boundary; 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

Case No. 17806 (continued)

Code, and finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lots 1 & 2, AND W. 100' of Lot 25 & 26, AND E 100' Lot 3, Block 1, Villa Grove Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17807

Action Requested:

Variance of frontage requirements within CG and PK districts. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS & SECTION 503. BULK AND AREA REQUIREMENTS IN THE PARKING DISTRICT**, located North, NE/c 71st & Memorial (Woodland Hills Mall).

Presentation:

The applicant, **Roy D. Johnsen**, 201 West 5th, Suite 440, representing Woodland Hills Mall, submitted a site plan (Exhibit H-1) and stated that the anchor stores own their own sites. The mall space and some of the common area around the buildings are owned by the owner of the mall. In addition, the owner owns property east of the ring road, which is zoned for parking. Mr. Johnsen explains that Dillard's is proposing an expansion by adding a third (3) level and under the reciprocal easement agreement ("REA"), which is among the anchor stores and mall ownership, the parking requirement is five (5) per 1,000 SF or one (1) per 200 SF. Because of the contractual obligations, Dillard's will need additional parking somewhere to accommodate their expansion in order to comply with the REA. The pie shaped lot will meet the required parking needed by Dillard's, but there are restrictions on its conveyance under the REA. He explained that it is hard to amend the REA because they are large and complicated. The REA is in the process of being amended, on an interim basis, the solution that has been arrived at is to convey the rectangular tract, which is the eastern most tract, under an agreement that when the REA is amended the two lots will be swapped back. Dillard's will ultimately have the pie shaped lot for their required parking. The rectangular tract and pie tract do not have frontage on a public street. The ring road that circulates the mall, with one small exception to the northern most part of the mall, is all private. He explained that the proposal does not meet the ordinance requirements for the CG or PK part of the subject property. Mr. Johnsen commented that the Code requirement for frontage on a public street was designed to protect a purchaser from buying land that is locked. He explained that the way the regional malls are developed, there are cross parking easements over almost all of the site. There will be access to the rectangle lot south through the existing parking and then west to the ring road, which leads to 71st or other public streets. Mr. Johnsen concluded that the variance is requested so that there can be a conveyance.

He stated that there have been two calls expressing concerns with the drainage. He informed the Board that the variance will not affect the drainage. The other concern is whether the berm will be removed that separates the parking area from the residential area. He stated that the manager of the mall does not intend to ignore any of the previous agreements. If there is an applicable agreement, then the manager will advise Dillard's of the agreement.

Interested Parties:

Frank Speigleburg, 9032 East 67th Street, representing the Burning Master Association, Inc., Burning Tree South Home Owner's Association, Inc., stated that Burning South is the subdivision that is in the subject area. He stated that the subject area has a 12' berm that runs behind the homes for a sound barrier, as well as a sight barrier. The homes all have their own privacy fences, which are owned by the homeowners but the berm and the trees were planted by agreement with the mall owners. He expressed concerns that the berm and trees will be removed.

Howard Siegfried, 9036 East 68th Street, stated that his home is adjacent to the berm in question. He expressed the same concerns as Mr. Speigleburg. Mr. Siegfried concluded that he would like to see the berm stay in place.

Applicant's Rebuttal:

Mr. Johnsen stated that the interested party's remarks are appropriate and if there is an agreement regarding the berm and trees, the Mall Manager will abide by the agreement.

Comments and Questions:

Mr. Dunham asked Mr. Johnsen if he would have a problem if the Board made a condition that the berm stay as it is? He stated he would have a problem with that type of condition because the potential is there to make a change, however, they would have to go back to the neighborhood to do so.

Ms. Turnbo asked the applicant if there is no agreement, with regard to the berm and trees, will there be some other type of landscaping installed and do away with the berm and trees? Mr. Johnsen stated that he does not represent Dillard's and so he cannot speak for Dillard's. He explained that he intends to advise Dillard's of the concerns and the possibility of an agreement with the berm and trees. He commented that Dillard's is sensitive to the issue. Mr. Johnsen stated he is uncomfortable with saying that things will never change. There may be changes with landscaping that are equal or better than what is in place currently.

Case No. 17807 (continued)

In response to Ms. Turnbo, Mr. Johnsen stated that if there is an agreement, the neighbors have a tool to keep the berm and trees in place. Mr. Johnsen reminded the Board that he does not know if the agreement exists and he cannot say that the agreement exists.

Mr. Stump stated that if there is no private agreement with the berm and trees, the only thing that the Zoning Ordinance would require, if they expanded into the area, is a 6' screening fence along the property line and a 5' flat strip of grass.

In response to Mr. Johnsen, Mr. Stump stated that the mall would have to meet the landscaping ordinance, but that may or may not include any trees and would not include any berming. There may or may not be any required landscaped areas containing a tree in the area that has the berms. Mr. Stump concluded that the landscaping requirements would depend on the spacing.

Mr. Johnsen stated that the mall is required to have landscaped areas within 50' of the parking space, Mr. Stump stated that he is right, but there will not be any screening provided or any noise separation as the berm does currently. He indicated that the landscaped areas might be as much as 65' or 60' away from the north property line that is adjacent to the residential. Mr. Stump stated that there is not a guarantee that there will be a great deal of landscaping in the subject area according to the current landscaping ordinance compared to what is in place now.

Mr. Johnsen stated that it is accurate to state that if there is no agreement, Dillard's could meet the landscaping ordinance with less than what is currently there now.

In response to Mr. White, Mr. Johnsen stated that the conveyance is a temporary issue and there will be no changes.

Ms. Turnbo asked the applicant if the conveyance is temporary why is there an issue that the berm could possibly be removed? Mr. Beach stated that if the agreement did not exist, the berm could come down today because there is nothing requiring it to be there.

Mr. Johnsen reiterated that if the agreement exists, the Mall Manager will abide by the agreement. The mall is sensitive to the neighborhood and if it will change, Dillard's will need to contact the neighbors and work through it. He states that it is different than the Board imposing a condition that the mall cannot change an area zoned for parking. He reminded the Board that the variance is only for an ownership change.

Mr. White asked Mr. Romig if there is any way that the Board can protect the neighborhood and still deal with the issue before the Board today? Mr. Romig answered negatively.

Case No. 17807 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Variance** of frontage requirements within CG and PK districts. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS & SECTION 503. BULK AND AREA REQUIREMENTS IN THE PARKING DISTRICT**; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Beg. at a point in the N Boundary of said Lot 1, Block 1, 660.00' from the NE/c thereof; thence N 89°59'48"E for 560.00' to a point 100.00' from the NE/c thereof; thence S 00°05'09"W for 125.00'; thence S 89°59'48"W parallel to and 125.00' from the N boundary thereof for 560.00'; thence N 00°05'09"E for 125.00' to the POB; AND Commencing at the NE/c of said Lot 1, Block 1; thence S 89°59'50"W along the Nly boundary of said Lot 1, Block 1, for 869.97'; thence N 44°54'55"W for 310.65'; thence on a curve to the left having a radius of 300.00' (and chord bearing N 67°27'27"W) for 236.06'; thence due W for 547.39'; thence S 00°03'42"W for 48.00'; thence due E for 577.78' to the POB; thence due N for 4.74'; thence S 84°23'53"E for 0.00'; thence on a curve to the right having a radius of 263.99' (And chord bearing S 60°40'47"E) for 218.57'; thence S 36°57'42"E for 8.41'; thence S 30°00'00"W for 408.11'; thence N 35°00'00"W for 29.79'; thence S 30°00'00"W for 10.11'; thence N 35°00'00"W for 26.57'; thence due E for 51.21'; thence due N for 422.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17808

Action Requested:

Appeal the decision of the Code Enforcement Officer determining that the mobile MRI unit is not an accessory use or in the Alternative: a Special Exception to permit a temporary mobile MRI unit as an accessory to an existing medical office. **SECTION 602. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 11, located 1430 South Utica Avenue.

Presentation:

The applicant, **Kelly Miller**, represented by **Linda Arnold**, Office Manager at Health South Diagnostic Center, One Health South Parkway, Birmingham, Alabama, 35243; submitted a site plan (Exhibit I-1). Ms. Arnold stated that Health South purchased the clinic in March of 1997, and during the process of purchase the office was upgrading their equipment. She explained that the office had taken out their MRI equipment when she was notified that Health South had purchased their office. Therefore, there is a building but there is no medical equipment inside the building. She explained that it was determined to use a mobile MRI while Health South relocates the clinic. She indicated that the MRI trailer will be a temporary trailer until their office is relocated. The MRI trailer is behind the clinic and is not visible from Utica Avenue.

Comments and Questions:

Ms. Turnbo asked the applicant what the noise level is while the MRI equipment is being used? She stated that there was a noise problem due to the generator, however the generator is gone because the electricity has been hooked up to the trailer.

Mr. Dunham asked the applicant what kind of time limit would she need before relocating? Ms. Arnold stated it would take approximately six (6) months to relocate.

Mr. Stump stated that there is an added complication with this application. He explained that the site plan does not reflect what is actually on the ground. All but four parking spaces in the rear are blocked by the trailer. All of the employees are parking on the lot to the north, which is grassed and graveled. He stated that the applicant does not have enough required off-street parking at this time.

Ms. Arnold agreed with Mr. Stump's statement. She explained that she worked out an agreement with the mortgage holder of the vacant lot in order for the employees to park there. She indicated that there are five (5) employees at the office. She explained that the patients are scheduled one per hour and there is only one patient at any one time in the office. She stated that there are four parking spaces in the back and that is where the patient will park.

Protestants:

Jerry Cantrel, 1411 South Troost, stated that he has a two-story home and a 2 story garage apartment. He explained that the MRI trailer did have a temporary generator that created noise at a level that could not be ignored. He stated the generator ran around the clock, every day of the week. He expressed concerns on how long the trailer would be in place and if there will be more trailers moved in.

Case No. 17808 (continued)

Comments and Questions:

Mr. White asked Mr. Cantrel if there is a noise problem now that the trailer is hooked up to electricity? He stated that in the last week there have not been any problems with noise.

Ms. Turnbo asked Ms. Arnold if she is aware of the conditions from the previous approval in 1992? Ms. Arnold stated that there are five (5) employees and three (3) are technicians. The technicians work on three (3) different shifts and the shifts overlap by one (1) hour. The hours of operation are 6:30 a.m. to 7:30 p.m. and there is one (1) technician per shift except for the overlap period. She explained that the other employees are clerical employees.

Mr. Beach stated that if the Board is inclined to approve this application, even on a temporary basis, the applicant will still be operating illegally because there is an insufficient number of required parking spaces. He explained that the applicant needs additional relief.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **DENY** the **Appeal** and **UPHOLD** the decision of the Code Enforcement Officer determining that the mobile MRI unit is not an accessory use.

AND

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to permit a temporary mobile MRI unit as an accessory to an existing medical office. **SECTION 602. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 11; subject to not exceed six (6) months; 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 and **CONTINUE** Case No. 17808 to enable the applicant re-advertise for further relief.

AND

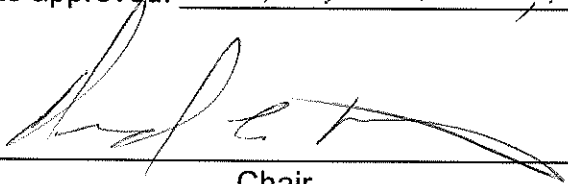
On **AMENDED MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle, Cooper "absent") to **APPROVE** a **Special Exception** to permit a temporary mobile MRI unit as an accessory to an existing medical office. **SECTION 602. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 11; subject to there being no generators operating at 1430 South Utica Avenue, on the following described property:

Case No. 17808 (continued)

Lot 7 and the N/2 of Lot 8, Block 4, Lakeview Addition, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:43 p.m.

Date approved: September 23, 1997



Chair

