

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 745
Tuesday, March 10, 1998, 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 Dunham Turnbo White, Chair	Cooper	Beach Huntsinger Stump Arnold	Ballentine, Code Enforcement Parnell, Code Enforcement Romig, Legal Department

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, March 9, 1998, at 9:05 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.

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 4-0-1 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" Cooper "abstentions"; no "absent") to **APPROVE** the minutes of February 24, 1998, (No. 744).

Case No. 17967

Action Requested:

Variance of required number of off-street parking spaces from 458 to 362. **SECTION 1212. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS – Use Unit 12 A, 13, 14** located SW/c E. 69th St. and S. Lewis Ave.

There was a question from a member of the audience as to whether Case No. 17967 was continued or would be heard.

Mr. Beach stated that it was continued to March 24, 1998 at 1:00 p.m.

Another member of the audience stated that they had no notice of the change.

Case No. 17967 (continued)

Mr. White answered that the Board had no notice until today. Mr. Beach stated that the problem with the case was that it was misadvertised with the wrong property being identified and that legally the Board could not hear the case.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper Dunham, White, "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 17967 to the meeting of March 24, 1998 at 1:00 p.m. because of the wrong property being advertised.

UNFINISHED BUSINESS

Case No. 17943

Action Requested:

Approval of amended site plan for building addition to existing school **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS Use Unit 2** located 525 E. 46th St. N.

Comments & Questions:

Mr. Romig stated that the ordinance amending the Zoning Code, which would eliminate the requirement for this type of action by the Board has been passed by the Council. We are waiting for it to be published. After it is published, these two cases will become moot and will not need approval by the Board.

Mr. Bolzle asked Mr. Romig if he is suggesting that they withdraw the two cases. Mr. Romig says the Board should strike them.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **WITHDRAW** Case No. 17943.

Case No. 17944

Action Requested:

Approval of amended site plan for addition to each school building located 2010 E. 48th St. N.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper Dunham Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **WITHDRAW** Case No. 17944.

NEW APPLICATIONS

Case No. 17957

Action Requested:

Special Exception to allow a community center with meeting room, Tulsa food bank distribution, office and day-care center. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2** located 1125 E. 36th St. N.

Presentation:

The applicant, **Lemeo Taylor**, 3709 N. Iroquois Avenue, he represents Tayo Fagbenro. Mr. Taylor stated that Mr. Fagbenro is the coordinator of the project. For the last 4 or 5 years the building has been used for storage for items that have been sent out for missions. It has also been a warehouse for Faith Christian Fellowship International. Life Link has purchased the building and is working to make the project a reality in north Tulsa.

Comments and Questions:

Mr. Dunham asked how many children are anticipated in the day care portion of the building. Mr. Taylor answered that 80 kids will be in the center from 7:00 a.m. to 8:00 p.m. or possibly 10:00 p.m. The community has voiced an interest in having a day care center that stayed open late in the evenings.

Mr. White stated that Staff has brought up the screening requirement on the west side. The applicant is asking for relief on that because on the west side is a vacant field. Mr. White doubts that it will ever be used as residential.

Mr. Beach replied to Mr. White that the applicant either needs to provide the screening or needs the relief.

Interested Parties:

Maxine Johnson 345 East 36th Pl. N. is the representative of Planning District 25. Ms. Johnson stated that they are willing to work with anyone planning to do any work in the area.

Applicant's Rebuttal:

Mr. Taylor stated that he has talked to Ms. Johnson and is willing to work with her and the community.

Board Action:

On **MOTION** of **DUNHAM** to **APPROVE** a Special Exception to allow a community center with meeting room, Tulsa food bank distribution, office and day-care center. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2** subject to there not being any more than 80 children and the hours of operation be from 7:00 a.m. to 10:00 p.m. and that the Code requirements as to screening be lifted.

Case No. 17957 (continued)

Mr. Stump pointed out to the Board that in 1981 the Board of Adjustment temporarily waived the screening requirements until the RS-3 property to the west is developed.

On **AMENDED MOTION** of Dunham the Board voted 5-0-0 (Bolzle, Cooper, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Case No. 17944 as previously stated and to waive the screening requirement as of Board of Adjustment application No. 11559 on the following described property:

Lot 2, Block 1, Market Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17958

Action Requested:

Variance of the identification sign limits from one to two per street frontage. **SECTION 402.B.4.b ACCESSORY USES IN RESIDENTIAL DISTRICTS** and Variance of the required setback from the centerline of Delaware from 50' to 40'. **SECTION 1221.C.6 BUSINESS SIGNS AND OUTDOOR ADVERTISING – Use Unit 21** located 8826 S. Delaware.

Presentation:

The applicant, **AMY MARTIN**, (Exhibit A-1 – Site Plan) is the property manager of the subject property. They are currently remodeling the property and want to put up signs advertising the property. There are currently other commercial properties in the area and their signs are at 30' or 40'. The applicant believes that the 50' limit would put the signs right at the back of the parking lot and would cause a safety hazard for the traffic coming through that could not see around the sign.

Comments and Questions:

Mr. White asked Staff about the setback on the signs. He asked Staff if a removal contract would help remove their concerns. Mr. Beach answered affirmatively.

The applicant stated that they would be willing to sign something to the effect that if the road were ever widened they would remove the signs.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** A Variance of the identification sign limits from one to two per street frontage. **SECTION 402.B.4.b ACCESSORY USES IN RESIDENTIAL DISTRICTS** and Variance of the required setback from the centerline of Delaware from 50' to 40'. **SECTION 1221.C.6 BUSINESS SIGNS AND OUTDOOR ADVERTISING – Use Unit 21** with the condition that they have a removal contract with the City of Tulsa on the following described property:

Case No. 17958 (continued)

Lots 1 and 2, Block 4, Crown Imperial Addition, City of Tulsa, Oklahoma.

Case No. 17959

Action Requested:

Variance of side yard setback from 5' to 4.7' for lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance of setback requirement from 3' to 0.4' for accessory building. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6** located at 1625 N. Greenwood.

Presentation:

The applicant, **Susan Atherton**, 2150 E. 15th St., Tulsa, OK (Exhibit B-1 – Site Plan) stated that she is the attorney for Dr. Powell who owns the property. Mr. Taryk Ferris filed the application but is no longer associated with Ms. Atherton. Dr. Powell's property consists of two houses with only one legal description. Dr. Powell is trying to sell the houses and it presents a problem because they cannot find one person to buy both houses. The applicant is requesting a lot split so that Dr. Powell can sell the houses. The applicant doesn't believe that they need the variance of framed storage because it is not on concrete and can be moved.

Comments and Questions:

Mr. Bolzle asked the applicant if she is withdrawing the request for variance of that setback? Ms. Atherton answered affirmatively.

Board Action:

On **MOTION** of **COOPER**, the Board voted 4-0-1 (Bolzle, Cooper Dunham, Turnbo, "aye"; no "nays", White "abstentions"; no "absent") to **APPROVE** a Variance of side yard setback from 5' to 4.7' for lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** on the following described property:

Lot 8, Block 2, Dunbar Addition

Case No. 17960

Action Requested:

Variance of the maximum height limit for an outdoor advertising sign from 50' to 80' **SECTION 1221. BUSINESS SIGNS AND OUTDOOR ADVERTISING – Use Unit 21** and located at NW/c W. 71ST St. and US 75 S.

Presentation:

The applicant, **John Moody**, 7146 S. Canton Ave., (Exhibit C-1 – Aerial, Exhibit C-2 – Site Plan, Exhibit C-3 – Photos) represents the First Apostolic Church, the Pastor of the church, Reverend Jeff Dikes was present. The church has owned the property for a number of years. It is zoned CS/Retail-Commercial. The first drawing is to show the location of the property. The tract immediately to the east is a 5 acre tract that is owned by the State of Oklahoma, Department of Transportation and adjacent to that is US 75. There are now functional drawings for the improvement of the intersection of 71st St. and Hwy 75. The project has not been finally funded and will probably about 5 years until the time when it will be constructed, but it is definitely going to be done. Highway 75 will go over 71st Street according to those plans. The elevation of Hwy 75 will change the frontage. There are many trees on the State of Oklahoma's property that obstruct the view of the church's property. Their request is based upon the fact that the property slopes from 71st St. to North and it drops approximately 30' from South to North so that there is a substantial variance in the topography that also adds to the dilemma of the church with respect to the request of the sign. Because of the topographical features of the property and because of the trees that are located on the State's property, which they have no control over, a sign is not visible at 50' high. They had a sign company come out and put the sign at 50', 60' and at 80' in order to show the request and why the sign height is necessary. The first photo is at 50' – the sign is not visible. The second photo is at 60' – it is still obstructed by the trees. The third photo is at the requested 80' height. Mr. Moody believes that because of the topography of the property and the natural features over which the property owner has no control, because the sign is not visible at 50' they feel that a hardship has been demonstrated. Mr. Moody stated that he has two conditions which they also offer for this application, which he believes the Board will be interested in. The first one is a request of the Technical Advisory Committee, that the sign not be located any closer to the property line than 17½'. The second one is their own voluntary condition, which is that they agree that at such time as the street and highway improvements are made and the height is no longer necessary, the church will condition the application that the sign will have to be lowered to the 50', providing that after the improvements are made the sign can be seen at 50' from the highway under normal conditions. Mr. Moody states that this is a temporary request that they might make for a period of 5 years and at that time the applicant would agree to lower it when the construction improvements are completed and the height variance is no longer necessary. Mr. Moody does not feel that the variance would be needed once the improvements are made.

Comments and Questions:

Mr. Bolzle asked the applicant why the particular location for the sign on the property was selected.

Case No. 17960 (continued)

Mr. Moody answered that there is an outdoor advertising sign to the south. This location was chosen because of the 1200' spacing requirement so that is the primary reason for that. The church can move it further to the south or to the north or within that envelope of space provided by the setback requirements.

Mr. Bolzle asked if Mr. Moody believes that the height variance was less of a concern than a variance of the spacing requirement.

Mr. Moody stated that they meet the spacing requirement. Mr. Bolzle asked about the alternative of moving the sign to the southern portion of the sight which is 30' higher than the northern. Mr. Moody answered that it would not be as visible from the traffic coming from the north to the south. They have been out on the property with the signs and poles moving from space to space. They would still need a height variance. It would not be 80' but maybe 60'. The applicant believes that the Board would have preferred not to have a spacing variance for the 1200' spacing requirement.

Mr. Bolzle asked if this was an income producing sign not the church's sign for the future building.

Mr. Moody answered that under the present negotiations the church would actually own the sign and the outdoor advertising would have a lease to use one side of the sign and the church would have use of the other side. It helps the church with some income production on this property. The church is actually located at S. 31st West Ave. The property was left to the church and they thought they would build on the property but after seeing what will happen to the property after the expressway is widened they won't be building on the property and this is a way for the church to pay the property taxes on the property.

Mr. Dunham asked about the proposed improvements to Highway 75. Why would the sign not need the height when the highway is going to be elevated over 71st St.?

Mr. Moody stated that the biggest problem now is the grade of the property and the trees and when the improvements are going to be done the State will remove the trees.

Mr. White made the comment that the church directly to the west of the property does not own the property. Mr. Moody stated it is a separate church and he has visited with them and they have no opposition to the sign and they are in support of the application.

Mr. Cooper asked Mr. Moody to explain the different heights of the signs.

Case No. 17960 (continued)

Mr. Moody answered that at such time as the trees are removed and the expressway is constructed they would reduce the height of the sign from 80' to 50' because they would no longer need the variance at that time.

Mr. Beach asked the applicant if he said 5 years. Mr. Moody stated that he would have no problem with 5 years and at that time they would have to come back and review at that time.

Mr. Bolzle stated that he had a problem with the wording of that because the reason for the five-year time limit would not get into the record. Mr. Bolzle suggested that they put five years but in any case no longer than five years so that when the Board reviews this in five years they can see the reasons that the Board granted the variance with those conditions. Otherwise, the Board in five years will look completely different and there will be no record as to what the case was and why we made the decision to grant it.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the maximum height limit for an outdoor advertising sign from 50' to 80' **SECTION 1221. BUSINESS SIGNS AND OUTDOOR ADVERTISING – Use Unit 21** for a period of not longer than 5 years or when the improvements to Highway 75 are completed, or whichever comes first, the sign will return to the height of 50' and at least 17½' from the property line on the following described property:

Commencing at the SW/c of the W2, SE/4, SW/4, SW/4, Sec. 2, T18N, R12E of the IBM, Tulsa County, State of Oklahoma, thence N0°01'21"W, along the west line of said W/2, SE/4, SW/4, SW/4 a distance of 24.75' to the POB; thence continuing N0°01'21"W a distance of 634.91'; thence S89°42'02"E a distance of 331.85'; thence S0°02'01"E a distance of 584.67' to a point 75' north of the south line of Sec. 2; thence N89°41'56"W and parallel with the south line of Sec. 2 a distance of 208.30'; thence S45°16'04"W a distance of 71.06' to a point 24.75' north of the south line of Sec. 2; thence N89°41'56"W a distance of 73.13' to the POB, Tulsa County, Oklahoma.

Case No. 17961

Action Requested:

Variance of the 20% coverage of the rear yard to allow construction of a detached garage. **SECTION 210. YARDS – Use Unit 6** located 1307 S. Jamestown Ave.

Case No. 17961 (continued)

Presentation:

The applicant, **Jon Schumann**, (Exhibit D-1 – Site Plan, Exhibit D-2 – Site Plan) requests a variance because they have an existing one-car garage, which is in very bad shape. Placement of the new garage, within the current zoning limits, will put the front of the new garage 17' from the existing house. With a 16' car it would not be possible to maneuver the car into the second bay of the garage. Therefore they would like to construct a new garage at the 5' utility easement along the back of the property.

Comments and Questions:

Mr. Bolzle asked if the garage could be moved as close as 3' to side lot line and then moved forward.

The applicant replied that it wouldn't help them because it would still be a lot of overlap for the second bay. He also stated that the problem is that they have a 5' utility easement on both sides and it is his understanding that he cannot build within that utility easement.

Mr. Bolzle asked Staff if it was a unique condition to have a 5' utility easement on both side lots. Staff answered affirmatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the 20% coverage of the rear yard to allow construction of a detached garage. **SECTION 210. YARDS – Use Unit 6** per plan finding that the easements surrounding the lot make it difficult to properly locate the garage to meet the code on the following described property:

Lot 11 and S. 2' of Lot 12, Block 13, Summit Heights Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17962

Action Requested:

Special Exception to permit Use Unit 2 – solid waste recycling and disposal facility.

SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS 0 Use Unit 2 located 1.5 miles east of HWY 169 on 46th St. N.

Presentation:

The applicant **Mark Adams**, 4041 N. 141st E. Ave., (Exhibit E-1 – Aerial) which is the site of Quarry recycling and disposal facility. He is the site manager and environmental engineer for that facility. It is a Waste Management of Oklahoma Corporation. The site is State permitted as a solid waste and non-hazardous industrial

waste landfill and operating in full compliance with the State and Federal laws and regulations. The site currently accepts waste from the City of Tulsa and surrounding communities. The landfill comprises approximately 135 acres of permitted area and the original permit covered 80 of the 135 acres. It was permitted in 1989 and in 1990 was within the Industrial Heavy District. The applicant also stated that the landfill was a use by right in that Industrial Heavy District. The applicant understands that landfill now requires review as a Special Exception by this Board. The Quarry landfill is currently seeking permit modifications to its existing permitted area and as a progressive waste management unit they are seeking the modifications to make sure they stay in compliance with their operating law and regulations as well as making continuing improvements to their operations and design construction.

Mr. Bolzle out at 1:50 p.m.

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 Special Exception Special Exception to permit Use Unit 2 – solid waste recycling and disposal facility. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS 0 Use Unit 2** on the following described property:

Mr. Bolzle in at 1:53 p.m.

Beginning at a point N89°58'20"W and a distance of 1,322.83' from the NE corner of Sec. 16, T-20-N, R-14-E of the Indian Meridian Addition; thence S41°26'11"E a distance of 1,512.70' to a point; thence S00°05'23"W a distance of 470.00' to a point; thence S71°10'03"W a distance of 337.92' to a point; thence S00°05'23"W a distance of 920'; thence S89°50'08"W a distance of 1,323.87 feet to a point; thence N00°06'38"E a distance of 2,636.94' to the POB; containing 54.81 acres more or less. And from the SE corner of Sec. 16, T20-N, R-14-E, of the Indian Meridian Addition, 16.43' along the south line of said Sec. 16 on a bearing of S89°49'55"W; thence 16.5' on a bearing of N0°10'05"W to a POB; thence along the north right-of-way line of the south line of said Sec. 16 on a bearing of S89°49'55"W a distance of 1,307.97'; thence N0°05'59"E a distance of 2,616.43'; thence N89°50'08"E a distance of 1,299.46'; thence along the west right-of-way line of the east line of said Sec. 16 on a bearing of S0°05'12"E a distance of 2,616.34' to the POB; containing 78.54 acres more or less, Tulsa County, Oklahoma.

Case No. 17963

Action Requested:

Special Exception to allow a mini-storage. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16** located at 206 S. 193rd E. Ave.

Presentation:

The applicant, **Tom Christopolos**, 9125 S. Sheridan, Tulsa, OK 74133, wants to put a mini-storage on the site with 148 units. The applicant believes that it will be an asset to the area.

Comments and Questions:

Mr. White asked if the development would go all the way back to the mobile homes. The applicant answered affirmatively on the west side.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a Special Exception to allow a mini-storage. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16** on the following described property:

Part of Lot 2, Block 1, amended plat of Rolling Hills Center Addition beginning at the SE corner of said Lot 2, Block 1, thence west along the south line of said Block 2, for 281.15'; thence due north for 153'; thence east for 281.15'; thence due south for 153' to the POB, Tulsa County, Oklahoma.

Case No. 17964

Action Requested:

Variance of the setback from the centerline of S. Yale Ave. from 50' to 30' to allow for a sign. **BUSINESS SIGNS AND OUTDOOR ADVERTISING; SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS – Use Unit 2** located at 510 S. Yale Ave.

Presentation:

The applicant, **Alan Parker**, 3513 S. Jamestown, Tulsa, OK 74135, (Exhibit F-1-Site Plan, Exhibit F-2 – Architectural Rendering) stated that the property is Yale Avenue Presbyterian Church. The church wants to replace an existing church sign. The side of the church building is 45' off the centerline of Yale Avenue. It is impossible for them to meet the 50' setback (that would be inside the building). The church is replacing the existing sign because the other one was old.

Comments and Questions:

Mr. White asked Mr. Parker if the church would have a problem with a removal contract. Mr. Parker said that the church had no problem with that.

Case No. 17964 (continued)

Interested Party:

Gordon Herd, 4723 E. 5th Place, lives immediately west of the church. His only concern is that as you approach Yale Ave. from 5th Place you might not be able to see oncoming traffic. The existing sign is fairly low to the ground but it was airy or you could see through it to see oncoming traffic. Mr. Bolzle showed Mr. Gordon a picture of the sign and Mr. Gordon said that he had no problem with the sign.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the setback from the centerline of S. Yale Ave. from 50' to 30' to allow for a sign. **BUSINESS SIGNS AND OUTDOOR ADVERTISING; SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS – Use Unit 2** per plan provided that there is a removal contract required in case Yale Avenue was ever widened on the following described property:

Lots 1-6 and 21-26, Block 4, Kendall View Addition, Tulsa County, Oklahoma.

Case No. 17965

Action Requested:

Variance of the required rear yard from 20' to 8½' **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and Variance to allow expansion of a nonconforming structure. **SECTION 1405. STRUCTURAL NONCONFORMITIES – Use Unit 6** and Variance of required setback for a garage which accesses a street from 20' to 15'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** located at 5807 E. 58th St.

Presentation:

The applicant, **George Jonas**, 5807 E. 58th St. Tulsa, OK 74135, (Exhibit G-1 – Site Plan) stated that he wants to add an extra room and garage to the existing house. The house is on a corner lot and is L-shaped. The proposed plan allows them to tie the added room and garage into the existing roofline. If the variances are not approved it will add cost to the project because they will have to change the roofline. The applicant has had OKIE come to their home and check for utilities and OKIE says there are no utilities on the easement that runs on the back side of their property. The variance they are requesting would not encroach on any part of the easement. All easement access has been from the property behind them and not across their property.

Comments & Questions:

Mr. Dunham asked if moving the garage 5 feet to the other end – would it affect the roofline? The applicant replied that they are trying to keep the roofline constant from one end to the other. Moving the garage back would cause the roofline to shift back and would decrease the size of the garage by 5 feet.

Mr. Dunham asked if it was possible to shift everything 5 feet into the back yard or is there an obstruction preventing that from happening. Mr. Jonas stated that there is no structure that would prevent them from doing that. They would prefer not doing that because of the additional cost and making the garage 5 feet smaller.

Mr. Dunham asked if the house currently had a garage and where the garage entered. The applicant answered affirmatively and that the garage enters from the Irvington side. Mr. Jonas wants to make the garage have access straight off the street.

Mr. Jonas told the Board that the driveway would be as long as or longer as the houses on both sides.

Mr. Dunham asked if the garage was going to be a three-car garage and the applicant answered that it would be a 4-car garage. The existing garage is being converted to living space and the remainder garage.

Mr. Cooper asked if there was a reason for the 4-car garage, the applicant stated that he wants to be able to put 3 cars and a boat in the garage. Mr. Jonas stated that there are a few other 4 car garages in the neighborhood.

Mr. Cooper stated that he was still confused about the hardship. Other than the cost of moving the roofline, what would the hardship be? Mr. Jonas replied that it was mainly a cost issue.

Ms. Turnbo agreed with the applicant saying that there are other 4 car garages in the neighborhood but she wasn't sure where in the neighborhood. Mr. Jonas mentioned that the other 4 car garages in the neighborhood have been additions to the existing homes.

Mr. Jonas asked the Board if the main concern was the ability to park on the driveway? Mr. Bolzle answered that the purpose of the ordinance is primarily to allow parking wholly within your property and not in the street right-of-way.

Mr. Bolzle stated that the Board needs to discuss the purpose of the required rear yard. This request is substantial from 20 feet to 8½ feet.

Mr. Dunham mentioned that he was confused about the rear yard and the reason for the setback. Mr. Stump answered that the setback requirement, when it fronts a garage is so that you can park a car on your lot in the driveway rather than in the street right-of-way where it could block vision.

Mr. Jonas said that it is his understanding that the proposed driveway measured from the curb to the structure 27½ feet whereas without the variance it would be 32½ feet.

Mr. Bolzle asked that if he has an encroaching structure would he be allowed some relief? Mr. Beach answered affirmatively. Mr. Bolzle stated that the other issue was that Irvington has more paving than a typical residential street.

Staff in discussion mentions that they are having a hard time trying to find a hardship.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 2-2-1 (Bolzle, Turnbo, "aye"; Cooper, Dunham "nays", White "abstentions"; no "absent") **APPROVE** a Variance of the required rear yard from 20' to 8½ feet and a Variance to allow expansion of a nonconforming structure and a Variance of required setback for a garage which accesses a street from 20' to 15', per plan submitted finding that the variances are not injurious to the neighborhood.

MOTION FAILED WITHOUT A MAJORITY VOTE.

Comments & Questions:

Mr. Bolzle asked Legal if the application was denied based upon that vote? Legal replied that because of the way the ordinance reads, it takes three votes to grant the relief – if it only gets two it automatically fails and is denied. Mr. Bolzle stated that the request was denied for lack of three affirmative votes for the Motion.

Mr. Stump mentioned that the Board may want to consider at least allowing an expansion of nonconforming use, which would allow him to expand if he met all requirements of the setbacks.

On **MOTION** of **COOPER** the Board voted 4-0-1 (Bolzle, Turnbo, Cooper, Dunham "aye"; no "nays", White "abstentions"; no "absent") to reconsider the Motion on one or more of the three actions requested.

Case No. 17965 (continued)

On **MOTION** of **DUNHAM** the Board voted 4-0-1 (Bolze, Turnbo, Cooper, Dunham "aye"; no "nays", White "abstentions"; no "absent") to **APPROVE** Variance to allow expansion of a nonconforming structure. **SECTION 1405. STRUCTURAL NONCONFORMITIES – Use Unit 6** and to **DENY** Variance of required setback for a garage which accesses a street from 20' to 15'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance of the required rear yard from 20' to 8½' **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** on the following described property:

Lot 8, Block 4, Park Plaza, Tulsa County, Oklahoma

Case No. 17966

Action Requested:

Special Exception for expansion of existing children's nursery and day care center. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11**, located W side of S. Delaware Ave., ¼ mile S. of 81st St.

Presentation:

The applicant, **Charles E. Norman**, (Exhibit H-1 – Site Plan) represents this application on behalf of Oral Roberts University as owner of Cityplex Towers. The purpose of this application is to request approval of the expansion of the existing day care facility that was approved by the Board in 1981. The application covers 15 acres of land, which is all zoned RM-1 Residential Multifamily, and immediately to the South on Delaware are several apartment complexes. On the northeast corner of this site is a public service substation and on the east side of Delaware are The Timbers, which is a condominium project which has significant screening and a security wall. The purpose of the application is to permit the leasing of this facility to the CFS Kids, which is a subsidiary organization of Commercial Financial Services. This project would allow the existing facility, which is licensed, for 360 children, to be expanded in three phases to slightly more than 1,500 children capacity under the licensing rules and regulations of the Oklahoma Department of Health. The site plan has been revised after comment by Staff to indicate compliance on the east side of the property with the setback requirements of the parking areas from South Delaware Avenue so that part of the parking setback is 25 feet from the right-of-way line and the remainder 42 feet to comply with the street frontage setback requirements. There are also some notes on the site plan that the buildings would all be one story in height, they will have a sprinkler system and they will be constructed to extremely high fire protection standards as required by the Code. Landscaping will be provided along the street frontage and within the parking areas as provided within the landscape chapter. No light standard shall be higher than 25 feet. Mr. Norman states that they have no objection to a requirement that the lighting be directed downward and away from

Delaware Avenue. The existing zoning code does not establish a specific parking requirement for a day care center but after conversations with Mr. Ackerman, he has established that requirement as though it were a nursery. One parking space for every 500 sq. ft. of building area. For all four phases that would amount to a total of 288 parking spaces. The site plan provided would provide for 343 parking spaces. For safety purposes the parent would be required to park their car and take the child into the facility. The total floor area of the existing facility and the proposed expansion would be 143,000 sq. ft. and that was the basis for establishing the parking requirement. The area will be fenced and outdoor play areas will be provided as required by the State licensing law. As to traffic flow, the cars that would be coming to the facility would be coming to the Cityplex Towers anyway as the parents of the children would be employees of the principal tenant of Cityplex Towers. This should not result in any traffic problems that do not already exist because of the employee traffic coming to that area.

Comments & Questions:

Mr. Dunham asked if the facility was limited to the use of the employees of CFS? Mr. Norman answered that it would be available to CFS employees and employees of the Cityplex Towers and would not be open to the public.

Mr. Dunham questioned the applicant as to the days and hours of operation. The applicant responded that they would be consistent with the work schedule of CFS, which has shifts that are scheduled at different time throughout the day and on Saturday and Sunday. Mr. Norman stated that they couldn't specify any hours but he knew there would not be any children there between the hours of midnight and 6 a.m.

Mr. Beach asked the applicant if the property line shown along Delaware on the site plan is the existing property line or the anticipated property line after right-of-way dedication. Mr. Norman answered that the property is already platted and he does not know the width of the right-of-way (Stump 40'). Mr. Beach stated that after review of a plat waiver application, the TAC recommended dedication of 10 feet of right-of-way. Mr. Norman asked Staff if the site plan was acceptable with the dedication of the additional 10 feet of right-of-way. Mr. Stump answered yes. Mr. Norman stated that he would like to ask for approval according to this site plan.

Interested Parties:

Bill Bates 3020 E. 85th St, Tulsa, OK 74137, he lives in The Timbers complex across the street. Mr. Bates said that it is difficult to speak against this project because he believes that it is needed. About a year ago he wrote a letter to the Mayor suggesting that someone look at the intersection of 81st & Delaware. He believes that this project is going to further complicate the traffic problems on Delaware, especially at rush hour. The entrances and exists are directly across from the ones for The Timbers. They have no backdoor to leave the property and Delaware is their only entrance and exit.

From 6:30 to 8:30 in the morning Delaware is almost bumper to bumper and the same is true from 4:30 to 6:30 in the evening.

Comments and Questions:

Mr. Stump stated that he needed to correct what he stated earlier. There is a 75 foot setback from centerline so you would have to move the parking another 10 feet to the west.

Mr. Norman asked if the approval of the site plan would be subject to it being moved 10 feet to the west. Mr. Norman discussed with Staff the concern over traffic whether these two entrances on Delaware should be located across from The Timbers entrance or offset. It was the preference of the Staff that they are across from The Timbers so they can be more easily regulated than if they were offset by 150 feet. The vehicles entering the day care facility will be employees coming to the Cityplex Towers and they would be coming to the area anyway. The vehicles will be able to travel through the daycare parking lot into the Cityplex Towers parking lot without getting onto Delaware again.

Mr. White asked if the primary entrance for the Cityplex Towers is from Delaware or 81st St. Mr. Norman answered that there are three from Lewis (on the west side) and the main entrance is from 81st St. and there is an entrance on the South side. Mr. White asked if this facility is accessible from the other lots on an interior road system? The applicant replied yes.

Mr. White asked Mr. Stump about the widening of Delaware. Mr. Stump replied that this project would add to the need of widening the road in the area.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-1 (Bolzle, Cooper Dunham, Turnbo, White, "aye"; no "nays", Cooper "abstentions"; no "absent") to **APPROVE** Special Exception for expansion of existing children's nursery and day care center. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11** per plan except that the site plan be shifted 10' to the west to allow for the proper parking setback from Delaware and subject to the conditions provided on the site plan plus the applicant's addition of shielded lighting and directed downward and away from The Timbers and Delaware in the parking area on the following described property;

Lot 1, Block 1 of Oral Roberts University Heights 2nd Addition being described as follows: beginning at a point that is the southeast corner of said Lot 1; thence N89°53'47"W along the southerly line of Lot 1 for 663'; thence N0°24'38"E along said easterly line for 986.05'; thence S89°53'47"E for 663.00'; thence S 0°24'38W for 986.05' to the point of beginning, Tulsa County, Oklahoma.

Case No. 17968

Action Requested:

Variance to reduce the required parking for hotel and restaurant from 83 spaces to 30 spaces. **SECTION 1219. HOTEL, MOTEL AND RECREATIO FACILITIES – Use Unit 19; SECTION 1212. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS – Use Unit 12** located NW/c 14th & Main St.

Presentation:

The applicant, **Roy D. Johnsen**, (Exhibit I-1 – Site Plan, Exhibit I-2 – Site Plan) appearing on behalf of BBC Ambassador, L.L.C., which is the owner of the property and Mr. Paul Coury, one of the principals, is in attendance. The property is the site of the Ambassador Hotel presently zoned CH. This property was constructed in the early 1920s, contained the Ambassador Hotel as well as a coffee shop. Over time, the hotel was converted to housing, the coffee shop became known as the Chalkboard Restaurant. Both of those uses then ceased and the property has been vacant ever since and zoned CH. At the time it was constructed, in a CH district, no parking was required. It became nonconforming in 1984, because the City adopted a new zoning classification called CBD – Central Business District. In the CBD no parking was required. In the areas that were not designated CBD they left in the CH classification, they changed the Code to provide that parking be provided in accordance with the Use Unit requirements. This property sits in an awkward position of being functionally, a part of downtown, when you consider that immediately to the north is CBD. The Broken Arrow Expressway separates the CH & CBD zoning districts. The surrounding area is mainly office and parking, no residential neighborhood. Mr. Johnsen believes that The Ambassador is really in the downtown area even though the policy was made not to extend CBD zoning south of the Inner Dispersal Loop. It is proposed that this property be renovated and the hotel will be reopened with luxury suites and a new restaurant to be known as the Chalkboard and will be run by the same person that ran the original one. Mr. Johnsen stated that they are taking a property that has been vacant for some time back to its 1926 use but our Code and the circumstances that have been outlined brings them before the Board seeking relief on the parking. Because of the interim use of residential it lost its non-conforming status. If the building had been left as a hotel use, they would not be before the Board seeking relief. The application was filed as a Variance and it should be considered as a Special Exception. It is anticipated that the hotel will have 55 rooms, the Code says one parking space per room – which would be 55. The restaurant was originally 2,500 sq. ft. It will be modestly expanded to 3,000. Under the Code, total parking needed will be one per 100 – 30 parking spaces plus 55 parking spaces equals 85 technically required parking spaces. The site plan that has been submitted, shows parking immediately to the north of the principal building, Mr. Johnsen believes that it can be designed to meet Code requirements as to space sizes and depth and aisle space for 39 spaces. The applicant has spoken to surrounding property owners, Littlefield Marketing and Advertising owns basically the west half of the block and are supportive of the project and the applicant has some indication that they will have some off-peak use of their parking lot. Bryce Insurance occupies basically the Northeast quarter of

the block and they are supportive of the request and they anticipate that the hotel will have some off-peak use of some of their parking. Mr. Coury, is also principal in the Warren Building which is on the west side of Boulder and there will probably be some parking allowed at that location. Mr. Johnsen said that they are not submitting that as part of the request for that condition to be imposed but he believes that it speaks to the practicality and the market forces that work in the downtown setting. It is a historic building and has been submitted for registration on the historic register.

Comments and Questions:

Ms. Turnbo asked the applicant what the hours of the Chalkboard restaurant would be. Mr. Johnsen replied that he does not know. He did state that it would definitely be open for lunch and dinner but he is not sure about breakfast and coffee shop service.

Mr. White asked if the parking shown was the only available parking that was there when the hotel was formerly in operation. The applicant answered affirmatively and that an urban setting is different from a suburban setting. The hotel anticipates a business traveler who may have business in the downtown area may come by plane to Tulsa and use a cab to get to the hotel. In this instance, the quality that the hotel has in mind will probably provide limousine service as part of the marketing effort.

Mr. Stump made the comment that since it is a Special Exception rather than a Variance and it is really a compatibility question, Staff's opinion is that the extension to the south of the CBD along Main is very similar to the CBD where there is no parking requirement and people are used to parking on the street and finding other ways of accommodating their vehicles. Staff thinks it is compatible with the surrounding development.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** per plan submitted Special Exception to reduce the required parking for hotel and restaurant from 83 spaces to 36 spaces. **SECTION 1219. HOTEL, MOTEL AND RECREATION FACILITIES – Use Unit 19; SECTION 1212. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS – Use Unit 12** on the following described property:

Lot 4, less the north 20' thereof, Lots 5-6, Block 5, Horner Addition Amended, an Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17969

Action Requested:

Variance of the required 146' setback from an abutting R district to 68' for an existing building **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS – Use Unit 11** and Waiver of the screening on the north side **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES** and Variance of allowable FAR from .50 to .53 for existing building **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS – Use Unit 11** located 2431 E. 51st St.

Presentation:

The applicant, **Charles E. Norman**, (Exhibit J-1 – Site Plan), represents the buyer of the property known as the Expressway Tower building. It was constructed in the 1970's and has gone through several owners including the RTC. The original building permits, certificate of occupancy and the as-built survey are no longer available to anyone today. The first two requests may have been cured as of this date, if the major amendment to the Use Units of the Zoning Code has now been published. This request arises because the Skelly Expressway is zoned in the RS-2 district and that triggers a requirement in the Code that there be an additional setback of 2 feet for every 1 foot of height in excess of 15 feet. The building has been there for over 25 years and either through oversight in the 1970's or a change in the Code, the first two requests are technical requirements that have been omitted from these by the major amendment to the Zoning Code that was recently approved by the City Council, but may not have been published as yet. The third request involves the size of the building, which is 3.22% over the 50% floor area ratio permitted in a CS zoning district. The building has been in its exact condition for several years.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the required 146' setback from an abutting R district to 68' for an existing building **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS – Use Unit 11** and Waiver of the screening on the north side **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES** and Variance of allowable FAR from .50 to .53 for existing building **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS – Use Unit 11** finding that the conditions of Section 1607C have been met on the following described property:

Lot 1, Block 1, Tower Addition to the City of Tulsa, Tulsa County, Oklahoma

Case No. 17970

Action Requested:

Special Exception for a mini-storage. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16** located S and E of SE/c 101st & S. Delaware Ave.

Presentation:

The applicant, **Jeffrey Levinson**, (Exhibit K-1 – Site Plan) 35 East 18th Street, representing the owner of the property Prestige Properties, Inc. This property is located at the intersection of 101st & Delaware, which is going to be part of the Riverside Parkway. He feels strongly that this use is in harmony with the Code and is not detrimental to the public welfare or injurious to the neighborhoods. Tomorrow, a preliminary plat for Summit Storage will be before the Planning Commission. The property is bounded on the east and west sides by Delaware Pointe subdivision. The client will be able to abide by the use restrictions with regard to screening.

Comments and Questions:

Mr. Beach asked the applicant if the Board was given a current site plan today. The applicant answered no, but he had some to pass out. Mr. Beach asked the applicant if he could provide the Board with a site plan. The applicant did.

Mr. Stump asked what the perimeter material will be facing the residence. Mr. Levinson answered that it will be masonry.

Mr. Beach asked if the masonry would be brick or concrete block. Mr. Levinson answered that it will be tilt wall concrete or concrete block.

Mr. Bolzle asked how high the fence would be and the applicant answered that it will be whatever they are required to make them.

Ms. Turnbo asked if the exterior lighting would be directed downward and away from the neighborhood. The applicant answered affirmatively.

Interested Parties:

Susan Holly, 2924 East 102nd Street, Tulsa, OK 74137, she is representing the Delaware Pointe Homeowners Association. The Association is new and just elected officers. The Association does not have an objection to the facility however, they are concerned about retaining their current property values and the quality of the neighborhood. The Association is concerned about the appearance and maintenance of the facility and would like to request that the applicant notify the Association of future developments.

Applicant's Rebuttal:

Mr. Levinson stated that he has spoken with the President of the Association and they will be happy to keep the neighborhood informed.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception for a mini-storage. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16** subject to the exterior lighting being shielded and directed downward and away from the nearby residential properties and per plan submitted today, on the following described property:

Beginning at a point 25' east of the NW/corner of the NW/4 of the NE/4 of Section 29, T-18-N, R-13-E of the Indian Base and Meridian; thence N89°42'15"E and parallel to the north line of said NW/4 NE/4; 637.14'; thence S00°09'35"E 660'; thence S89°42'15"W 637.09'; thence N00°09'51"W and parallel to the west line of said NW/4 NE/4 660' to the point of beginning; less and except Lot 1, Block 1, Star Center 4, an Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17971

Action Requested:

Variance to reduce the required yard along Braden Ave. from 10' to 0' to permit an addition to an existing structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 2** located 5115 E. 51st St. S.

Presentation:

The applicant, **Steve Cox**, (Exhibit L-1 – Site Plan, L-2 – Site Plan) 5115 E. 51st St., wants to extend the porte cochere 10 feet so that the ambulance can get through the ambulance entrance to the nursing facility. The previous owner had the ambulance pull into the parking lot and the patients would be ushered out through the weather.

Comments and Questions:

Mr. Cooper asked Mr. Cox to explain if it was going to be a canopy or if it will be enclosed on the sides. Mr. Cox replied that the roofline will be the same and the covered drive-thru will have rock pillars.

Mr. Cooper asked if any car was driving down Braden, could it see any car pulling out of the canopy? Mr. Cox answered that the canopy has a lot of clearance on both sides. The canopy will be far removed from the entrance and exit onto Braden.

Board Action:

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance to reduce the required yard along Braden Ave. from 10' to 0' to permit an addition to an existing structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 2** per plan on the following described property:

Parts of Lots 17 – 18, Canfield Subdivision, more particularly described as follows: beginning at the SW/c of said Lot 18; thence N0°08'43"E, along the west line of said Lot a distance of 22.41' to a point; thence S66°42'20"E a distance of 19.60; thence S88°05'40"E a distance of 216.56' to a point; thence S89°58'09"E, a distance of 70.17' to a point on the east line of Lot 17; thence S0°08'57"E, along said east line of said Lot 17, a distance of 7.42' to the SE/c thereof; thence west along the south line of said Lots 17 and 18 a distance of 304.50' to the point of beginning, an Addition to the City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:00 p.m.

Date approved: _____


Chair