

CITY BOARD OF ADJUSTMENT
MINUTES OF Meeting No. 756
Tuesday, August 25, 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
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Cooper	Arnold	Ballentine, Code	
Dunham	Beach	Enforcement	
Perkins	Stump	Parnell, Code	
Turnbo		Enforcement	
White		Romig, Legal	
		Department	

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday, August 21, 1998, at 2:00 p.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 1:05 p.m.

MINUTES

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; White "abstentions"; no "absent") to **APPROVE** the minutes of the June 23, 1998 meeting (No. 752).

UNFINISHED BUSINESS

Case No. 18098

Action Requested:

Appeal from the determination of the Neighborhood Inspector (Code Enforcement) of an unspecified violation of the Zoning Clearance Permit and Certificate of Use and Occupancy No. 126335 and an Appeal from the determination of the Code Official (Building Inspections) ordering the Applicant to *"remove outdoor storage of material including paper, cardboard and similar products awaiting processing in any manner associated with recycling as per zoning clearance permit"*. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, located 10601 E. Ute St.

Presentation:

The applicant, **Stephen A. Schuller**, stated to the Board that this case was heard two meetings ago. There was opposition to the case and the case was continued in order to meet with the opposition and discuss ways to resolve their differences. Mr. Schuller stated that the categorization of the use of this property is not before the Board today, that has already been determined by the City in the issuance of the Certificate of Occupancy based upon the application he filed of the operations of the business. The City determined what the appropriate categorization is. The condition that was imposed on the Certificate of Occupancy was for no outdoor storage of materials awaiting processing. Mr. Schuller presented arguments at the last meeting about what constituted outdoor storage. Mr. Schuller believes that what is being conducted is not outdoor storage of materials. Mr. Schuller stated that his client has agreed to construct a building over the area where the materials are being deposited. The material that is on the property will now no longer be outdoors. Mr. Schuller's client has met with the opposition and discussed in detail the operations on the property. The neighbors are satisfied with respect to construction of the building on the east side of the property. The client also agrees not to store anything over the height of the fence on the west side of the building. Mr. Schuller believes that this should satisfy everyone involved. The client is beginning to construct the building on the east side of the property.

Comments and Questions:

Ms. Turnbo asked if Mr. Schuller is asking the Board to amend their decision of August 26, 1997 ruling because the Zoning Official, Roy Ballentine, was enforcing their decision of no storage of any products outside. Mr. Schuller stated that he is not appealing from that ruling but he is appealing the violation notices from the City Inspectors. Mr. Beach stated that the Board action on August 26, 1997 was to deny a special exception to allow a Use Unit 28. There were no conditions. Mr. Romig stated that in the August 26, 1997 case, the applicant came before the Board without an attorney and it was later determined that not having an attorney hurt them and the case went to District Court. Mr. Schuller became involved in the case and the court case was dismissed because they did not believe they needed a Use Unit 28 but it would be a Use Unit 23. They then applied for a Use Unit 23 and the zoning official then agreed that it was a Use Unit 23 but that there could be no outside storage of materials. Subsequent to that, they were cited for having the outside storage and being in violation of the occupancy permit.

Mr. White asked Mr. Romig if the condition of no outside storage was also considered to be storage of materials awaiting processing? Mr. Dunham stated that they are requesting some outside storage on the west side of the building but that is processed materials that are waiting to be shipped out, so they are asking for some kind of variance from the zoning clearance permit. Mr. Schuller said no, they are not asking for anything from the zoning clearance permit because the zoning clearance permit says that they cannot have outdoor storage of material awaiting processing. On the

east side of the property, the storage will not be outdoors. They do not need any more relief.

Mr. Beach asked Mr. Schuller about the west side of the property. Mr. Schuller responded that those materials are not awaiting processing, they are awaiting shipment and they are only on the site for about twelve hours.

Mr. Romig mentioned that the occupancy clearance permit says that no outside storage of material, including paper, cardboard, awaiting processing or in any manner associated with recycling, so it does specify awaiting processing. Mr. Romig stated that what is before the Board at this point is the appeal of the determination that they are in violation of this requirement that there be no outside storage of materials awaiting processing. Mr. Romig says that the issue becomes moot. Mr. Stump thinks the Board could support the decision of the inspector as finding that to be in violation and as a caveat that if it is in an enclosed building that will no longer be in violation of the permit.

Interested Parties:

Mike Love, President of Love Envelope, he is representing the Wolf Point Owners Association. Mr. Love stated that they have met twice with Continental Paper, the applicant. The Association agrees with everything that has been said but for the record they would like to be more specific. Mr. Love submitted to the Board a list of restrictions for the paper company (Exhibit A-1). Mr. Love, speaking for the association, said that they believe six months is an acceptable time for Continental Paper to comply with everything on the list of restrictions. They would like the paper company to remove the orange temporary fence in the front yard. The paper company should be responsible for any paper that gets loose from their premises.

Mr. White asked Mr. Love if six months is an acceptable time frame. Mr. Love answered yes. Mr. White asked if a general concept of the building is acceptable since there are no plans available at this time. Mr. Love answered yes, as long as the building is compatible with others in the area.

Comments and Questions:

Mr. White asked Mr. Schuller if the list of restrictions and the six month time limit is acceptable to him. Mr. Schuller answered from a quick glance at the list, that it does appear to be consistent with everything his client has agreed to do.

Mr. Cooper asked if the Board needs to review building plans at some point. Mr. Dunham replied that they do not because they must meet the requirements of the Building Code office. Mr. Cooper asked how they can enforce the covenants of the association. Mr. Dunham replied that they cannot. Mr. Romig said that the Board can make restrictions on the use of the property. The problem in this particular case is there is really nothing before the Board to act as a vehicle to make those require-

Case No. 18098 (continued)

ments. This is simply an appeal from a Code Enforcement Officer's decision, so it is just a matter of upholding or not upholding it. It is Mr. Romig's understanding that the applicant is in effect withdrawing it. Mr. Cooper said that they have a period of time, six months, that they are going to be in violation, how do they override that? Mr. Romig said that the problem is that a person can't operate illegally for six months. Mr. Cooper believes that this is a big problem. Mr. Dunham said that they are going to uphold the officer's decision but if they do that to the strict letter of the law, they can't continue to operate while they are constructing the building. Mr. Schuller suggested that the Board continue this case for six months. Mr. Romig said that this is not an uncommon situation, if they are trying to comply they are not going to be put out of business.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** this case for six months or the meeting of February 23, 1999.

Case No. 18119

Action Requested:

Special Exception to permit cellular telephone antennae and supporting structure to be affixed to an existing electrical utility monopole 75' in height, resulting in a tower height of 80'. **SECTION 1204.C.5 Use Unit 4. PUBLIC PROTECTION AND UTILITY FACILITIES – Use Unit 4.**; a Special Exception to modify the setback of an accessory building from the centerline of E. 36th St. from 55' to 47'. **SECTION 1204.C.3.g.2. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**; a Special Exception to delete the requirement of security fencing of the cellular telephone tower **SECTION 1204.C.3.h. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**; a Special Exception to modify landscaping/screening requirements to substitute existing tree growth as the required landscape buffer. **SECTION 1204.C.5.c.1. ANTENNAS AND TOWERS REQUIRING SPECIAL EXCEPTIONS**; a Special Exception to modify the setback of the cellular telephone tower from residentially zoned lots from 88' to 42'. **SECTION 1204.C.3.g.1. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**, located NE/c E. 36th St. & S. Lewis Ave.

Presentation:

The applicant, **Roy D. Johnsen**, 201 W. 5th St., represents AT&T Wireless Services. Submitted a site plan and pole plan (Exhibits B-1, B-2,) and stated that the subject property is the northeast corner of 36th St. and Lewis Avenue. On the property is a Public Service Company substation. Mr. Johnsen explained that the property is zoned RS-1 but is not used for residential purposes. The tract is approximately 2½ acres in size and the north-south dimension is 150' and the east-west dimension is 450'. The PSO substation is enclosed by cyclone fencing on the south portion of the tract and that area is approximately ½ acre. AT&T is proposing to use an existing PSO monopole that is located on the south side of the PSO facility, approximately 250' east of Lewis. The monopole is a public service transmission pole, is made of steel and is 75' in height. AT&T proposes to add an extension to the monopole which will be the tower for their cellular telephone antennae. That extension will result in the monopole's height being extended to 80'. Mr. Johnsen reminded the Board that a cellular telephone pole must also be accompanied by an equipment or shelter building. That building is proposed for location east of the enclosed PSO transformer substation. Mr. Johnsen pointed out that the AT&T equipment building will be located behind a heavy row of cedars. Mr. Johnsen mentioned that because there is not presently a cellular telephone tower located on the property and it is zoned residentially, it requires a special exception to permit a cellular telephone tower even though it is an extension to an existing monopole. Under the code there is a setback requirement from residential properties of 110% of the height of the tower. As proposed, this height would be 80' at 110%, the setback would be 88'. Mr. Johnsen stated that this is a very conservative interpretation of the Code but in meeting with the Staff, it was determined that AT&T would need some setback modification. The property immediately to the south is zoned residentially, however, it is used by Southwestern Bell as a switching facility. There is a significant building on site and their ownership extends east to the next street. Mr. Johnsen stated that the Southwestern Bell switching facility is within 88' of the existing monopole. This is the only monopole setback that AT&T is seeking because the monopole existing as it is, is approximately 238' from the east boundary of the PSO ownership. The monopole is approximately 250' to the north boundary before you reach residential properties and it is approximately 250' from the west boundary when you reach Lewis. Mr. Johnsen stated that under the Code new cellular telephone towers are required to have security fencing around the pole. The subject pole has been there for several years, is steel and was built with anti-climbing design. Mr. Johnsen feels that there is no need for a fence to be built around it. Typically AT&T builds an equipment building that is 12' x 22' within a lease area that is approximately 20' x 35'. On the site plan provided, the orange shaded area is the area where the equipment building will be built. When AT&T sited the equipment building, they were trying to hide it within the trees without removing many trees. Within the Code, any building must have a setback, this building has a setback of 47' and the Code requires 55'. They have asked for a special exception to modify the setback because the location hides the building with tree coverage. Mr. Johnsen interprets the Code to read that they are required to have

a 4' landscaped area around the compound or building. The Code does not specify type or species. The Code goes on to say that the Board may modify and suggest that if there is existing vegetation, that may be sufficient. Mr. Johnsen and AT&T believe that given the number of trees there, to have 4' of landscaping serves very little purpose. Mr. Johnsen mentioned that he has represented AT&T on a number of applications for these towers and he has always been pleased to say that AT&T diligently tries to find sites that make sense and can be supported on their locations and they take extreme care and attention in supporting that. AT&T's problem in this location is that Lewis beginning south of 21st and extending to north of 51st is all residential. There is not the typical pattern of commercial that is found in other parts of the City. Mr. Johnsen submitted two exhibits (Exhibit B-7) showing the general circumstance that AT&T is in regarding providing service to this area. The outer circle of green shows present sites of AT&T, they have recently built a site at 31st & Riverside and one at 51st & Peoria. Mr. Johnsen stated that you cannot always find the exact site that you want, they are not available or they are not zoned properly. Mr. Johnsen believes that AT&T has done an excellent job of good site selection and the ones that were not zoned, came before this Board and were approved. There is a big hole in the middle of these areas which is the 36th & Lewis site and his exhibits show this lack of coverage. Mr. Johnsen submitted a letter from AT&T's engineer (Exhibit B-3) and discusses AT&T's need for a tower in this area. In regard to the neighborhood contacts, Mr. Johnsen and AT&T mailed a site plan and explanation to the neighbors and their willingness to meet with the neighborhood. They have had two continuances on the meeting dates, several telephone conversations with the neighbors and some of the neighbors do not object to the tower. They did have an on-site meeting last Friday and there were about ten neighborhood people there. At that meeting they discussed the equipment shelter and what AT&T is proposing is the pebble finish and that is what most people would like to see there. Mr. Johnsen stated that in the Board file there should be a letter from Mrs. Brunton who lives north of the PSO facility. Mr. Johnsen and AT&T agree with what Mrs. Brunton's letter suggests they do. Mr. Johnsen believes that they have a strong application that meets a technical need of AT&T and meets all of the standards of the Zoning Code.

Interested Parties:

Harrison Towns, 2685 E. 38th Street, President of the Greater Oakfield Homeowners' Association which is across the street from the tower. Mr. Towns stated that this is the third hearing he has been to opposing a cellular tower being placed in this area. This area is zoned residential and the cellular tower is a commercial enterprise.

Frank Henke, 3449 S. Atlanta Place, submitted a packet of information to the Board (Exhibit B-5). Mr. Henke believes that the current process in dealing with the cellular towers works very well and the ordinances controlling the construction of the towers were well received. Mr. Henke stated that this is the third time he has been before the Board opposing a cellular tower in this area. Mr. Henke spoke of a Board case that was heard in October of 1996 in which the Board denied an application of

Southwestern Bell to build a tower across the street from this location. Mr. Henke believes that 36th & Harvard would be a better location for a tower. Mr. Henke stated that there is an excess amount of telecommunications capacity in Tulsa and what AT&T is proposing to build is redundant and totally unnecessary. Mr. Henke asked the Board to deny the application for the cellular tower in this location.

Braden Pringle, Councilor, District 9, submitted and read a letter that he wrote to the Board (Exhibit B-6). Mr. Pringle asked the Board to deny the application.

Ms. Turnbo asked Mr. Pringle if he prefers PSO to build a new 80' or 90' pole and allow the other cellular companies to locate on it.. Mr. Pringle answered negatively.

Herb Batey, 2445 E. 36th Street, stated that he attended the meeting with AT&T with the hope that they could work something out and he came away very disappointed. Mr. Batey mentioned that the fundamental issue is that nobody in the neighborhood is asking for this. There is no demand from Tulsans for this service. This is a request from an out-of-state corporation to get a monopoly or create a precedent that is going to have more and more of these in residential areas. Mr. Batey said that this is a very rapidly growing technology and he is sure they will be wanting more towers in town. Mr. Batey believes that the City should have only one server at various places in the community.

Applicant's Rebuttal:

Mr. Johnsen stated that in regard to Councilor Pringle's remarks, he is right the enclosure is 12' x 20'. Mr. Johnsen believes that the consensus in the neighborhood is that one tower may be okay but they do not want a proliferation of towers in the area. Mr. Johnsen feels that they are in accordance with the spirit and intent of the Code. Mr. Johnsen spoke about the relationship between AT&T and Southwestern Bell pertaining to the October 22, 1996 Board case and stated that AT&T did not have the lease and they did not have a budget problem. The neighborhood association filed a lawsuit and AT&T decided not to pursue the location. Mr. Johnsen stated that Board decisions are not precedent, they are site specific. Mr. Johnsen stated that there is a Federal Telecommunications Act and it has some strong mandates in it. The Board's normal consideration of an application for special exception, the standards for those grants are not identical to the review and consideration of a cellular telephone tower. Mr. Johnsen stated that the special exceptions asked for are just technical, they can move the equipment building back if the Board desires, but they will lose a tree or two in doing that. Mr. Johnsen sees no reason to put a security fence around a pole that has been existing without one for about 30 years. Mr. Johnsen asked the Board to approve the application.

Comments and Questions:

Mr. Dunham asked Mr. Johnsen if this tower is being constructed in such a manner that another cellular tower company could co-locate on it. Mr. Johnsen answered no, it was examined and the tower strength and height would not be effective for two.

Mr. Cooper asked Mr. Johnsen if the other tower on the site would only be able to support one other antenna. Mr. Johnsen answered yes that was his understanding. Mr. Cooper asked if it was his conjecture that a grand total of two of these antennas will be able to go on this site under these exact set of circumstances. Mr. Johnsen answered affirmatively.

Mr. Romig stated that the two prior cases that were brought before the Board in October of 1996 and in October of 1997 were brought forth under another ordinance. Since that time the Board has adopted a new ordinance in March of this year. They did that because of the Federal Telecommunications Act. Mr. Romig stated that one of the requirements of the Telecommunications Act is that the decision of the Board, should they turn down a tower, be based upon a written record supported by substantial evidence. The courts do not allow generalized fears. The idea that this may be precedent for something in the future is simply not a factor that the Federal courts allow you to look at.

Mr. Johnsen stated that he has spoken with representatives of AT&T and they said that there cannot be two antennas on the proposed extension. PSO is looking to see if below that extension they can have a partial second co-location.

Mr. Cooper asked Mr. Johnsen how many trees will be removed to build the equipment building and will any be replaced. Mr. Johnsen said that two trees to the east (orange band in photos) will be removed and they had told Mrs. Brunton that they will plan evergreens north of the building. The access is derived from the east and they will not replace any on the east. Mrs. Brunton's and Mr. Phillips houses are north of the equipment building and they requested the evergreens be planted there.

Ms. Turnbo does not feel that adding 5' to the existing tower will be injurious to the neighborhood. As far as the fencing is concerned, the tower has been there for over 30 years and is not necessary.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** Special Exception to permit cellular telephone antennae and supporting structure to be affixed to an existing electrical utility monopole 75' in height, resulting in a tower height of 80'. **SECTION 1204.C.5 Use Unit 4. PUBLIC PROTECTION AND UTILITY FACILITIES – Use Unit 4.**; a Special Exception to modify the setback of an accessory building from the centerline of E. 36th St. from 55' to 47'. **SECTION 1204.C.3.g.2. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**; a Special Exception to delete the requirement of security fencing of the cellular telephone tower. **SECTION 1204.C.3.h. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**; a Special Exception to modify landscaping/screening requirements to substitute existing tree growth as the required landscape buffer. **SECTION 1204.C.5.c.1. ANTENNAS AND TOWERS REQUIRING SPECIAL EXCEPTIONS**; a Special Exception to modify the setback of the cellular telephone tower from residentially zoned lots from 88' to 42'. **SECTION 1204.C.3.g.1. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS**, with the following conditions that are found within a letter dated August 17, 1998 from Sheila R. Brunton (Exhibit B-4)

1. On the north side of the structure, AT&T will plant and maintain several evergreen trees to obstruct the view of the building.
2. No removal of the tree on the north side that is currently tagged for removal.
3. AT&T further acknowledges they shall maintain the gravel road to be cut from 36th St. to the site. AT&T will keep vegetation from growing in this area.

on the following described property:

Lot 7, and the S 93' of Lot 8, all in Block 4, Oak View Estates Addition to the City of Tulsa, Tulsa County, State of Oklahoma according to the recorded plat thereof. **Lease Area Description** A part of Lot 7, Block 4, Oak View Estates, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat No. 640, being more particularly described as follows: Commencing at the SE/c of said Lot 7; thence due W along the S line of said Lot 7, a distance of 172.67'; thence due N a distance of 27.00' to the point of beginning; thence due W a distance of 30.00'; thence due N a distance of 15.00'; thence due E a distance of 30.00'; thence due S a distance of 15.00' to the point of beginning containing 450 SF and a part of the right-of-way of East 36th St. S., more particularly described as commencing at the SE/c of Lot 7, Block 4, Oak View Estates, thence W along the common boundary of said Lot 7 and the right-of-way of E 36th St. S. a distance of 232' to the point of beginning thence S a distance of 10'; thence W a distance of 10'; thence N a distance of 10'; thence E a distance of 10' to the point of beginning.

Case No. 18121

Action Requested:

Special Exception for Use Unit 5 in an RS-3 zoned district to allow a driveway from E. 36th St. to Boevers Elementary School. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, located 13329 E. 36th St. S.

Presentation:

The applicant, **Vernon Harmon**, representing Union Public Schools, submitted a compromise proposal and stated that the original application was continued from July 28, 1998. At that time, the Board requested that they meet with the interested parties and attempt to work out an arrangement. Mr. Harmon said that they met on August 13, 1998. At that meeting was school staff, school board members, and interested neighbors. Mr. Harmon said that they did come to consensus on four basic items that needed to be modified (1) fencing will be 4' chain link and will not protrude further than the house setback line. (2) The project will have sufficient landscaping and will be maintained at a high level. (3) Provide a swing arm gate that will be painted a non-obtrusive color with appropriate reflectors and (4) They will reduce the proposed drive to 18' and provide for minimum radiuses at 36th Street. Mr. Harmon urged the Board's approval on this application.

Comments and Questions:

Mr. White commended Mr. Harmon and the neighbors for meeting and working out their differences and coming to common ground.

Ms. Perkins asked Mr. Harmon if there are houses being built on the two vacant lots across from the drive. Mr. Harmon answered that at the time the drawings were first conceived, they were vacant lots. Since that time footing have been poured and they are under development.

Interested Parties:

Mr. White asked if there were any interested parties who still objected to the application and there was no answer.

Gail Nesmeth, stated that the meeting was very productive. Everyone came to terms and they are very happy with the results. Ms. Nesmeth would like to see no parking signs go up in the area.

Comments and Questions:

Mr. White asked if the owners of the two houses under construction have been notified of the plans. Mr. Harmon believes that notices were sent to the developers and they have not heard anything from them.

Case No. 18121 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** Special Exception for Use Unit 5 in an RS-3 zoned district to allow a driveway from E. 36th St. to Boevers Elementary School. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** per plan, with the four conditions set forth above and in the letter submitted to the Board from Union Public Schools dated August 18, 1998, on the following described property:

Lot 8, Block 2, Park Plaza East IV, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18150

Action Requested:

Variance of the front setback from an arterial street to a structure (fence/wall) to 35'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a Variance of the allowable height for a fence in the front yard from 4' to 8'. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards,** a Variance of the required 25' rear yard to 20' for new structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS,** A Variance of the required all weather dust free parking to permit gravel. **SECTION 201.C. YARDS, Use of Yards in R Districts,** located 2511 E. 31st St.

Presentation:

The applicant, **Brian L. Freese**, was represented by Steve Schuller. Mr. Schuller submitted a site plan and drain plan (Exhibits D-1 and D-5) and stated that he represents the property owners, Robert and Wheta Maryfield. Mr. Schuller mentioned that this is to be the home of the Maryfields. They have designed a very special place with special design elements and would like to make it compatible with the neighborhood. Mr. Schuller would like to withdraw the requested variance for the rear yard setback. The site plan shows the location of the wall along the front of the property. The wall extends along the property line which is setback some distance from the center of the street. There is an additional setback where the driveway entry goes into the property and the wall is setback even further from the centerline of the street. The proposed wall will line up with other fences and walls that are in the vicinity of this property on 31st Street. Mr. Schuller submitted to the Board photos showing surrounding properties and their fences (Exhibit D-2). Mr. Schuller proceeded to discuss the walls and fences in the photos. The wall will not block any view of the passing traffic along 31st Street from the adjacent properties. The height of this fence is equal to or lesser than other fences on 31st Street. Mr. Schuller has also requested

a variance of the dust-free parking to permit gravel in the parking area. The Maryfields would like to put down a type of small gravel instead of paving. This gravel does not generate dust. There is a house across the street that has the same sort of gravel. Mr. Schuller read the definition of all-weather surface. This small, smooth gravel does not generate dust and does not deteriorate from normal weather conditions because unlike a concrete, asphalt surface, water does not seep into it and crack it because it moves around with the water. The design of this plan is such that the gravel will be contained within the courtyard and the yard with a curb all the way around it so it will not run into the street. The adjacent property owners' houses are elevated above the Maryfield's house and any rainwater runs onto the Maryfield's property. The landscape architect has designed a fairly sophisticated drainage plan for this property with basins and drains that will catch the runoff from the adjacent properties and divert in into pipes and French drains into the street. They have also designed openings in the base of the wall 12" square to allow water to pass through the wall into the street.

Comments and Questions:

Mr. Cooper asked Mr. Schuller what the hardship is on the gravel request. Mr. Schuller answered that it is a unique circumstance. Mr. Stump interjected and stated that the Code requires parking areas and drives to be on a dust-free all-weather surface. Mr. Stump said that the Board could determine that it meets that qualification and no variance will be needed for that design.

Ms. Turnbo asked what the name of the gravel is. Mr. Schuller and Mr. Stump answered pea gravel.

Mr. Beach asked Mr. Schuller if he has any drawings with him that show a cross section of how the gravel will be constructed. What is below it? Mr. Schuller replied that he did not have anything like that and he does not believe that his clients do either.

Interested Parties:

Robert Glass, represents Royce and Sheila Par and stated that they have lived east of the subject property for over 30 years. Mr. Glass submitted to the Board an exhibit packet (Exhibit D-3), photos (Exhibit D-4) and a letter from a protestant who could not attend the meeting today. Mr. Glass does not believe that Mr. Schuller has presented to the Board any compelling evidence for extraordinary circumstances or hardship that justify the variances before the Board today. Their objections fall into three categories (1) stormwater, (2) proposed wall and (3) the gravel to be used in the drive. Mr. Glass pointed out to the Board photos in the packet showing the property before the applicants raised the house, scraped the property and filled in the pool to prepare the property for the new development. There is a significant history of water flow onto and off of the property. Mr. Glass said that the proposed improvements for the property extend to every setback line or beyond it. The Par's expressed concern that the wall will act as a dam and not allow water onto the property. Mr. Glass pointed out to the

Board Exhibit 4 in their packets which is an engineer's report prepared by the Par's engineer to assess their concern about the proposed improvements and their effect on surrounding properties.

Mr. Dunham mentioned to Mr. Glass that he is confused about what they want. They seem to be concerned about a driveway that will allow water to run through it when their major argument is about water flow. Mr. Dunham believes that the gravel may help the water flow. Mr. Glass stated that in regard to the gravel material, the concern is that to the extent that water does get in or there is a heavy rainfall in the area, the only place for the gravel material to go, if it goes anywhere, is to wash through the driveway entrance and onto 31st Street. Of greater concern is as water flows from north to south, it will hit a wall that runs across the back of the property and a lot of the water will run onto the Par's property.

Mr. White asked if the Par's engineer had a chance to look at the applicant's exhibit showing the French drains. Mr. Glass replied that he received the plans this morning and has not been in touch with the engineer.

Mr. Glass pointed out to the Board that increasing the height of the wall may potentially affect egress from the property. The Pars do not have a turn around driveway and any vehicle must back onto 31st Street and they may not have a clear site line with the 8' wall.

Mr. Dunham asked Mr. Romig if, no matter what the Board decides, the developer of the property cannot impede the flow of water that would normally come onto the property. Mr. Romig replied that Stormwater Management will look at the issue.

Terry Muncress, 2433 E. 31st Street, stated that he has lived there for over 31 years. Mr. Muncress stated that they have seen the various stages of water flow in this area over the years. Mr. Muncress mentioned that the proposed method of getting rid of the water is not adequate. All of the walls shown in the photos were wrought iron and allowed water to pass through them. One wall which was solid happened to be put in without Board approval. Mr. Muncress encouraged the Board to deny the application.

Ms. Turnbo asked if Mr. Muncress was aware that the engineer hired by the Pars was not aware of the applicant's drainage designs for the property. Mr. Muncress replied that he was not aware of that.

Comments and Questions:

Mr. Stump stated that he did not adequately advise Mr. Cooper on the definition of all-weather material. The definition was more extensive than he remembered. It does require the hard surface and a binder between the gravel and it does require a Variance.

Mr. Romig stated that he checked with the Building Official and since this lot is under an acre it is not normally reviewed by Stormwater Management. The Building Official believes that a review was done on this particular piece of property because of the gravel being considered an impervious material to see what the effect of water would be. The Building Official is checking on the matter right now.

Mr. White asked if the Board is inclined to approve the application, could the condition of Stormwater Management approval be made part of the motion? Mr. Romig answered yes because of the impervious material. If it is because of the wall, probably not.

Applicant's Rebuttal:

Mr. Schuller stated that this development exceeds the livability space requirements of the Zoning Code by a factor of almost 2. Mr. Glass made mention of how much of the property is being covered by house and courtyards, etc. but it does still constitute twice the livability space required for this property. Mr. Schuller pointed out that his clients were very cognizant about the water on this property and that is why they went to a professional designer for this drainage system in order to address those concerns. The properties on either side of this property are higher in elevation so the water is not going to flow onto those properties it is going to flow onto the Maryfield's property. Because of the water problem on the property they have designed an intricate system of drains to catch the stormwater.

Mr. Dunham asked if anyone from the City has looked at the plans and approved them. Mr. Schuller replied no but the Board could impose that as a condition of approval.

Mr. Schuller mentioned that when the development is finished, the property will be valued at \$900,000 and will enhance the neighborhood not diminish property values.

Comments and Questions:

Mr. Beach expressed concerns about the structural integrity of the pea gravel. Mr. Beach pointed out that the soil below the pea gravel will have to be compacted to such a degree that it will not be pervious. Someone mentioned the possibility of washing the gravel onto 31st Street. Mr. Beach believes that is a real concern given the direction the property slopes. Mr. Beach encouraged the Board to have a look or have Stormwater Management have a look at a cross-sectional view of how this is being proposed to be constructed.

Mr. Beach said that the height of the wall does not matter, it is the setback that is important. When you sit in a car, your eye level is well below 4'. If this wall is out closer to 31st St. than what is normally permitted, then it is going to block the view of oncoming traffic. Mr. Schuller said that is the reason this wall is designed with the setback to prevent that from occurring.

Case No. 18150 (continued)

Mr. Schuller pointed out that the engineering report that was submitted by the protestants isn't really a report it is speculation without facts backing up some of the conclusions.

Mr. Dunham asked Staff if they can impose the requirement that this plan be reviewed and approved by Stormwater Management. Mr. Romig checked with Mr. Ackerman and suggested that if the Board is inclined to approve this they could continue the hearing and let Stormwater Management review it and report back. Mr. Dunham stated that the Board is concerned about drainage and if the City does not have the right to review this then the Board has a real concern with the protestants objections. As long as the Board knows that the drainage problems are addressed and approved by the City, not the engineer then that would alleviate most of Mr. Dunham's concerns. Mr. Schuller said that as he understands the Code, the Board can impose almost any kind of appropriate conditions that it deems necessary in granting a variance or special exception. Mr. Schuller does not see why the Board could not impose the condition that they have an approval of the drainage plan by Stormwater Management. The clients have the same concerns as the neighbors, they do not want their house or wall to flood. Mr. Romig suggested continuing the application and let them do their review and report back to the Board.

Mr. Schuller said that his clients would like for the Board to approve the variances subject to Stormwater Management approval. Mr. Romig mentioned that the protestants do not want this and the clients think it is okay but the Board should not put City offices in the middle of disputes like this. Mr. Romig thinks it would be okay if it comes back as a review from them with a recommendation to the Board to take appropriate action. Otherwise they are involving a City department in a neighborhood dispute.

Ms. Parnell asked Mr. Schuller if the Maryfields intend on occasionally hosting cooking classes on the property. Ms. Parnell pointed out that if they do there may be a Code violation.

Mr. Cooper commented that the Board sees numerous cases and any one of them could have significant engineering problems and that is the cost of being property owner or homeowner. It is not up to the Board to make engineering decisions or give advice as to how they are going to prevent getting sued by their neighbors. Mr. Cooper does not believe that this is the Board's problem. Mr. Cooper is not in favor of continuing the case. Ms. Turnbo agreed with Mr. Cooper and pointed out that the Maryfields have addressed the drainage problem and their property would be the most affected.

Mr. White asked the Board to discuss the first variance pertaining to the wall setback. Mr. White asked Mr. Romig if irrespective of the height, this is only because it is a wall and not a fence. Mr. Romig replied yes, the basic difference is the permanence. Mr.

Stump stated that this request comes from the fact that no structure can be in the planned right-of-way and the planned right-of-way on this property is 50' from the centerline. This is one of the arterials that may be downsized. Nobody had a problem with the setback requirement.

Mr. White asked the Board to discuss the next Variance/Special Exception to raise the height from 4' to 8'. Nobody had a problem with the height.

Mr. White asked the Board to discuss the pea gravel. Ms. Turnbo stated that the other house on 31st Street that has the pea gravel was open for an open house and she saw it and it reminded her of what is done in Europe. Mr. Dunham stated that they do not have a cross section of the gravel and he would like to see one. Ms. Turnbo stated that it does not create dust and as far as drainage, it would not be any worse than a concrete or asphalt drive. Mr. White said that they have to deal with what the Code says. Mr. Cooper said that he appreciates the look that the Maryfields are trying to achieve but the pea gravel does create dust. Mr. Cooper stated that there is no hardship for this.

Board Action:

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **APPROVE** Variance of the front setback from an arterial street to a structure (fence/wall) to 35' **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** finding that it is in keeping with the character of the neighborhood and finding the hardship to the traffic on 31st Street; **APPROVE** a Special Exception to allowable height for a fence in the front yard from 4' to 8'. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards,**

AND

WITHDRAW a Variance of the required 25' rear yard to 20' for new structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS,**

AND

DENY A Variance of the required all-weather dust-free parking to permit gravel. **SECTION 201.C. YARDS, Use of Yards in R Districts** on the following described property:

Lot 20, Block 5, South Lewis Park Addition, City of Tulsa, Tulsa County,
State of Oklahoma.

* * * * *

NEW APPLICATIONS

Case No. 18149

Action Requested:

Appeal from the Code Enforcement Officer's decision that the present use of the property for Use Unit 23, Storage is unlawful. Appellant claims that the use is a valid pre-existing nonconforming use, located 9902 E. 81st St.

Presentation:

The applicant, **Stephen A. Schuller**, stated that the property owners Eloise and Buddy Bane have been cited with a zoning violation for unauthorized vehicles, heavy equipment, etc. being on this property. Mr. Ballentine submitted five aerials (Exhibit E-1), zoning violation notices (Exhibit E-2) and stated that he studied the 1976 aerial photograph and determined that there were not any heavy equipment or vehicles on the property at that time. Therefore, Mr. Ballentine concluded that those vehicles that are on the property were not there in 1976 after the Code was adopted therefore they constitute an illegal use of the property. The Zoning Code went into effect in 1970 and the property is zoned AG-Agriculture. Mr. Schuller's clients have had a rental contract with four different road boring and road constructing companies continuously since 1963 and therefore have had the equipment and vehicles parked on the property since that time. A 1977 aerial photograph shows the vehicles and equipment on the property. If there are more on the property now, it is because they were in use somewhere on a construction site at the time the photo was taken and then returned to the property at a later date. Mr. Schuller has checked with his clients and they are emphatic that if any of the equipment has been removed from the property it would be at most for a period of two to three weeks when it was being used on a construction project. Some of the equipment stays on the property at all times. This use has been continuous on the property since 1963, which is before the adoption of the Zoning Code. Mr. Schuller stated that there has been no expansion of the use but the equipment has been shifted on the property because they have recently sold a portion of their property. Mr. Schuller said that the uses of the property are valid, lawful nonconforming uses of the land and buildings on the property. Mr. Schuller asked the Board to reverse the zoning violation determination by Code Enforcement.

Comments and Questions:

Mr. Stump asked Mr. Schuller when he contended that this property was annexed into the City of Tulsa. Mr. Schuller replied that he did not know when it was annexed into the City. Mr. Stump mentioned that there were zoning ordinances far before 1970.

Mr. Schuller stated that this property is past Mingo on 81st Street and it might not have been in any of the earlier annexations. Mr. Romig stated that 1966 was the annex date. Mr. Romig asked Mr. Schuller if this existed on another portion of the larger property and was consolidated. Mr. Schuller replied that the trucks and heavy equipment were parked along the gravel driveway. It has been spread out over the property but now is in one central location. Mr. Romig stated that his concern is that

the Code provides that a nonconforming use may continue so long as the use is not moved in whole or in part to any portion of the lot or parcel other than that occupied by use on the effective date of the Code. So if the use has been shifted around on the larger parcel to accommodate the smaller parcel, then it still requires Board of Adjustment action. Mr. Schuller said that they are using the same property and the same portion of the property that they have always used they have just started using less of the property.

Mr. Cooper asked Code Enforcement if they were concerned that this property was turning into a junkyard and that had not been the previous use. Mr. Ballentine replied that the complaint came in from the new development on the RS-3 part and they were concerned about it looking like a junk yard and that most of the automobiles had been there since 1953 or 1954. Mr. Schuller stated that the developers have informed him that they intend to build a screening fence to block that part of the property. Mr. Cooper said that it seems that Code Enforcement categorized it as a Use Unit 23 and asked if it was their intent to include Use Unit 28 as part of the unlawful use. Mr. Ballentine replied that he did not get that far in regard to Use Unit 28. Use Unit 28 would not be allowed in an AG District. Mr. Cooper stated that the applicants are claiming that this has been a truck storage site for some time and Mr. Cooper does not think that it has been a salvage or junk yard. Mr. Ballentine agreed. Mr. Ballentine submitted several maps (Exhibit E-1) showing the areas where the trucks are stored. Ms. Parnell stated that in reviewing the maps, it appears that there has been an expansion. Ms. Parnell stated that they were looking at an expansion of a nonconforming use. As far as Use Unit 23 and Use Unit 28, 23 is storage not elsewhere classified, which would be the vehicles. If the vehicles have been there since 1953 they would be grandfathered.

Interested Parties:

Jerry Gordon, P.O. Box 479, Owasso, submitted photos (Exhibit E-3) and stated that he is a developer and he has purchased the property to the south and is developing it with a subdivision. Mr. Gordon stated that they will be putting a fence across the back of the property. Mr. Gordon said that they are getting a lot of complaints about the abandoned cars on the property and it is scaring off home buyers.

Mr. Dunham asked Mr. Gordon if he has noticed any expansion of the property or has it remained the same since he has bought his property. Mr. Gordon replied that he knows that there is equipment sitting on a portion of the property but it is rusted and not usable. Mr. Gordon had to haul tons of junk off of the ten acres he bought.

Case No. 18149 (continued)

Applicant's Rebuttal:

Mr. Schuller mentioned that Mr. Hale (person who runs the operation) pointed out that the areas on the aerials are the same areas that have always been used. Mr. Schuller stated that it is not an attractive use and he guess that it is not a permanent use given the development patterns of southeast Tulsa. It is however, an existing nonconforming use and not a violation of the Zoning Code.

Comments and Questions:

Mr. Dunham stated that there has been an airport there for many years. Mr. Dunham said that he owns property in the area and he has not noticed any expansion on the property. He feels that economics will take care of this problem and he does not think that this use will be there in two years no matter what the Board decides. On the other hand he would be concerned if they turn it into an auto salvage but he does not see that happening. Mr. Dunham pointed out that the property is for sale at this time and with property values in the area high he does not believe that this use will be there in a few years.

Mr. White asked Staff and City Legal what can the applicants do by right without coming before the Board. Mr. Beach replied that the property is zoned as AG, so it is allowed to be used for agriculture uses.

Ms Perkins stated that the property looks the same as it did when she moved here in 1968.

Ms. Turnbo said that it is very obvious on the maps that there is a difference.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-1-0 (Cooper, Dunham, Perkins, White, "aye"; Turnbo "nays"; no "abstentions"; no "absent") **UPHOLD** the Appeal from the Code Enforcement Officer's decision that the present use of the property for Use Unit 23, Storage is unlawful; finding that the existing use is a valid nonconforming use on the following described properties:

The N/2 of the E 20 Acres of Lot 1, Section 18, T-18-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

* * * * *

Mr. Cooper was out at 4:15 p.m.

Case No. 18151

Action Requested:

Approval of amended site plan previously approved under BOA No. 17182 for building expansion. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15**, located 4142 S. Mirigo.

Presentation:

The applicant, **Ed Jackson**, P.O. Box 472062, Tulsa, 74147, submitted a site plan (Exhibit F-1) and stated that he wants to add on 80' x 100' to his building to use as a warehouse. The use of the building will not change.

Comments and Questions:

Ms. Turnbo asked the applicant if he is going to increase his parking. Mr. Jackson replied that he has enough parking spaces. Mr. White stated that the parking on the north side of the expansion is going to end up being a driveway. Mr. Jackson stated that he will continue to have enough parking.

Mr. Beach stated that he did a quick analysis on the site plan while preparing the case report and it appeared there is more than adequate parking. In addition he will have to meet the parking requirement to receive a building permit for the expansion. Mr. Stump pointed out that Mr. Jackson said that he will be using the building for a warehouse. Warehouse use is not permitted in a CS District.

Mr. Stump asked the applicant if this is warehousing for his retail sales and Mr. Jackson answered affirmatively. Mr. Stump stated that is still considered retail sales and is okay in the CS District.

Board Action:

On **MOTION** of **PERKINS**, the Board voted 4-0-0 (Dunham, Perkins, White, "aye"; no "nays"; Cooper "abstentions"; no "absent") to **APPROVE** an amended site plan previously approved under BOA No. 17182 for building expansion, per plan submitted. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15**, on the following described property:

Beginning at the NE/c of the E/2, E/2, NE/4, Section 25, T-19-N, R-13-E, thence due W along the N boundary of said E/2 E/2 NE/4 a distance of 660.61' to the NW/c of said E/2 E/2 NE/4, thence S 0°07'58" E along the W boundary of said E/2 E/2 NE/4 a distance of 695.85' to a point in the northerly right-of-way line of the Broken Arrow Expressway, thence S 71°30'27" E along said expressway right-of-way line a distance of 320.16'; thence S 67°01'44" E along said expressway right-of-way line a distance of 388.54' to a point in the E boundary of said E/2 E/2 NE/4, thence N 0°08'44" W along the E boundary of said E/2 E/2 NE/4 a distance of 948.89' to the point of beginning, subject to the following described roadway easement, to-wit: Beginning at a point in the E boundary of said E/2 E/2 NE/4 112.10' from the NE/c thereof; thence S 0°08'44" E along the

Case No. 18151 (continued)

E boundary of said E/2 E/2 NE/4 836.79'; thence N 67°01'44" W, 108.73'; thence N 0°08'44" W, 619.10'; thence N 12° 43'46" E, 179.51'; thence N 89° 51' 16" E 60.00' to the point of beginning.

Case No. 18152

Action Requested:

Special Exception to allow a residential treatment center and a medical care facility in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS. Use Unit 2**, located N of NE/c E. 36th St. N. & N. Lewis.

Comments and Questions:

Mr. Beach stated to the Board that this case needs additional notice. The original legal description submitted did not adequately describe the full extent of the property. New notice has been sent for September 8, 1998.

Board Action:

No action was taken and the case was continued to September 8, 1998.

Case No. 18153

Action Requested:

Special Exception to remove the screening requirement between the IL and RMH & RM-2 Zoning Districts. **SECTION 212.C. SCREENING WALL OR FENCE, Modification of the Screening Wall or Fence Requirement – Use Unit 23**; a Variance deleting the requirement that the uses in Use Unit 25 located within 300' of an R District be conducted within enclosed buildings. **SECTION 1225.C. USE UNIT 25. LIGHT MANUFACTURING AND INDUSTRY, Use Conditions**, located SW/c E. Admiral Pl. & 145th E. Ave.

Presentation:

The applicant, **Charles E. Norman**, stated that this application involves a site recently purchased by Albertson's for a regional distribution center at the SW/c of Admiral Place and 145th E. Ave. This property has been recently rezoned by the City Council to the IL zoning district. Some time in the past the property immediately to the west was zoned in the CG district except for approximately the east 50'. Mr. Norman stated that Albertson's has closed the purchase of the property and under the Zoning Code it

triggers the requirement of a screening fence along the entire western boundary of the IL zoned district. That requirement would not be there if the CG boundary came up to the west boundary of the Albertson's site. It also triggers the prohibition of any Light Industrial activity within 300' of the west boundary of the site. That requirement would not be there if the narrow strip of mobile home zoning was not there. The building plans have been approved by the Building Inspector but they were required to show the screening fence along the west boundary. There will be a security fence put up around the property but it will not be the privacy fence that is required by the Zoning Code. Mr. Norman asked the Board to delete the screening requirement on the west boundary and grant a variance from the provisions that would permit any outside light industrial within 300' of the residential property. Mr. Norman stated that neither the OL or the RMH is wide enough to permit development for those uses under the requirements of the Code.

Interested Parties:

John Roy, 9018 E. 38th Street, stated that he is representing the East Tulsa Mingo Valley Association. Mr. Roy encouraged the Board to approve the application which they believe will be beneficial to East Tulsa.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** Special Exception to remove the screening requirement between the IL and RMH & RM-2 Zoning Districts. **SECTION 212.C. SCREENING WALL OR FENCE, Modification of the Screening Wall of Fence Requirement – Use Unit 23;** a Variance deleting the requirement that the uses in Use Unit 25 located within 300' of an R District be conducted within enclosed buildings. **SECTION 1225.C. USE UNIT 25. LIGHT MANUFACTURING AND INDUSTRY, Use Conditions** on the following described property:

Lots 7 and 8 and the S/2 of the NE/4 of Section 4, T-19-N, R-14-E, Tulsa County, Oklahoma.

Case No. 18154

Action Requested:

Special Exception to permit a softball complex. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 20**, located SE/c Lynn Lane & 21st St. S.

Comments and Questions:

Mr. Beach stated to the Board that this case needs additional notice. The original legal description submitted did not adequately describe the full extent of the property. New notice has been sent for September 8, 1998.

Board Action:

No action was taken and the case was continued to September 8, 1998.

Case No. 18155

Action Requested:

Special Exception to allow a 13-foot privacy fence in an RS-3 district. **SECTION 201.B. YARDS, Permitted Obstructions in Required Yards – Use Unit 5**, located 6262 S. Sheridan.

Presentation:

The applicant, **Robert Anquoe**, was represented by Michael Hackett, 406 S. Boulder, submitted a site plan (Exhibit G-2) and stated that he is representing Shadow Mountain Hospital. Shadow Mountain has been at this site for a number of years and it is a private psychiatric facility for adolescents. This is an inpatient facility with about 60 adolescent patients. They have a problem with some of the residents running away and they want to discourage that by constructing a 12' privacy fence on the north side of one of their buildings. It is in an area that is fairly isolated. Shadow Mountain is on a knoll and is isolated from surrounding residential and commercial uses. Mr. Hackett submitted photos to the Board (Exhibit G-1) showing placement of the fence.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** Special Exception to allow a 12-foot privacy fence in an RS-3 district. **SECTION 201.B. YARDS, Permitted Obstructions in Required Yards – Use Unit 5**, per plan submitted, on the following described property:

Case No. 18155 (continued)

N495', E 551.61', S/2 NE NE, Less E 50' for right-of-way, City of Tulsa, Tulsa County, Oklahoma.

Case No. 18156

Action Requested:

Special Exception to permit the use of the subject property for offices. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11;** Variance from the requirement for the location of off-street parking spaces on the lot containing the use for which such parking spaces are provided. **SECTION 1301. OFF-STREET PARKING; GENERAL REQUIREMENTS;** Variance of the setback requirement for parking spaces from the centerline of the abutting street. **SECTION 1302. OFF-STREET PARKING; SETBACKS;** Variance of the requirement for a screening wall or fence along the lot lines in common with the abutting R District. **SECTION 1211.C.1. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES, USE CONDITIONS,** located 1903-1907 S. Boston Ave.

Presentation:

The applicant, **Stephen A. Schuller**, submitted a site plan (Exhibit H-1) and stated that he represents Carmine Funding Corporation, which is a financing and factoring company. The property is in an RM-1 District and they plan to completely renovate the single family structure on the property and make it their offices. Most of their business is conducted over the phone and they expect to have one client per day in terms of traffic coming to the property. The area is zoned RM with quite a bit of office zoning in the vicinity. They propose to have a parking area in front of the house. Because the property is in an RM district it is required to have screening around the entire property which doesn't make sense when you look at the property and the surrounding neighborhood. There is heavy vegetation on the south side of the property which provides natural screening.

Comments and Questions:

Ms. Turnbo stated that she is very familiar with this street and it is an area that is turning into offices.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-1 (Dunham, Perkins, Turnbo, "aye"; no "nays"; White "abstentions"; Cooper "absent") to **APPROVE** Special Exception to permit the use of the subject property for offices. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11;** Variance from the requirement for the location of off-street parking spaces on the lot containing the use for which such parking spaces are provided. **SECTION 1301. OFF-STREET PARKING; GENERAL REQUIREMENTS;** Variance of the setback requirement for

Case No. 18156 (continued)

parking spaces from the centerline of the abutting street. **SECTION 1302. OFF-STREET PARKING; SETBACKS;** Variance of the requirement for a screening wall or fence along the lot lines in common with the abutting R District. **SECTION 1211.C.1. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES, USE CONDITIONS,** on the following described property:

Lots 23 and 24, Block 2, Boston Addition, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 18157

Action Requested:

Variance to remove landscape requirements applicable to parking areas within a CH zoned district; or in the alternative, a Variance to allow compliance with landscape requirements of the CBD. **SECTION 1002.A. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements, SECTION 1002.B. LANDSCAPE REQUIREMENTS, Parking Area Requirements, and SECTION 1002.C. LANDSCAPE REQUIREMENTS, Tree Requirements,** located Se/c 14th & Main; NE/c 15th & Main and SW/c 15th & Baltimore.

Comments and Questions:

Mr. Beach mentioned to the Board that a timely request was made by Kevin Coutant.

Presentation:

The applicant, **Roy D. Johnsen**, 201 W. 5th Street, stated that he represents Boulder Tires. Mr. Coutant advised Mr. Johnsen that he filed a timely request for a continuance. Mr. Johnsen has no objection to that continuance.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; no "absent") to **CONTINUE** Case No. 18157 to the September 8, 1998, meeting.

Case No. 18158

Action Requested:

Minor Variance of required rear yard of 25' down to 21'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 3744 S. Xanthus Ave.

Presentation:

The applicant, **Jon T. Vrooman**, 6138 S. Louisville, submitted a site plan (Exhibit I-1) and a letter from a supporting neighbor (Exhibit I-2). Mr. Vrooman stated that the dimensions of the house are 75' x 135'. Mr. Vrooman discovered before staking off the lot that the lot is actually a parallelogram instead of a rectangle so the corner are not 90°. This caused a corner of the house to be 21' from the rear yard.

Comments and Questions:

Mr. White voiced a concern about the pins being correct. Mr. White stated that all the records indicate that the lot is 90°.

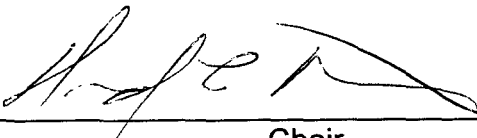
Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** Minor Variance of required rear yard of 25' down to 21'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, per plan submitted today on the following described property:

N/2, N/2, Lot 10, S/2 Lot 11, Block 11, Highland Park Estates as amended Lots 1, 2, 3, 11 and 12, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 4:40 p.m.

Date approved: OCTOBER 27, 1978



Chair