

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 824  
Tuesday, August 14, 2001, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

**MEMBERS PRESENT   MEMBERS ABSENT   STAFF PRESENT   OTHERS PRESENT**

Dunham, Vice Chair	Cooper	Beach	Boulden, Legal
Perkins		Butler	Ballentine & Parnell,
Turnbo			Zoning Official
White, Chair			

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600, on Friday, August 10, 2001, at 11:20 p.m., as well as at the City Clerk's office, City Hall.

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

\*\*\*\*\*.

**Case No. 19157**

**Action Requested:**

Mr. Beach announced that the applicant made a timely request for a continuance of this case to August 28, 2001.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19157 to August 28, 2001.

\*\*\*\*\*.

**Case No. 19166**

**Action Requested:**

Mr. Beach announced there is no relief needed for this case and does not need any action.

**Board Action:**

No action was needed. Mr. White announced that Case No. 19166 was stricken from the agenda.

\*\*\*\*\*.

**MINUTES:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of July 10, 2001 (No. 822).

\*\*\*\*\*.

**MINUTES:**

On **MOTION** of **Dunham**, the Board voted 3-0-1 (White, Dunham, Turnbo "aye"; no "nays"; Perkins "abstained"; Cooper "absent") to **APPROVE** the Minutes of July 24, 2001 (No. 823), as amended.

\*\*\*\*\*.

**UNFINISHED BUSINESS**

**Case No. 19124**

**Action Requested:**

Modify condition of Special Exception for Use Unit 17 imposed in BOA 18323 to permit autos to remain on lot for five days instead of two days. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 17, located 215 S. Lewis Ave.

**Presentation:**

**John W. Moody**, stated he was representing Lester Springer. This property came before the Board in March 1999. The facility was used for an Otasco store years ago. There are six bays used for auto maintenance. He was required to not store inoperable vehicles there more than two days, and to put up screening fence and to do some landscaping. The tenant was cited for inoperable vehicles parked for more than two days and for not doing the screening and landscaping. The tenant ended up vacating because he could not operate such a business with the short turn-around time. Mr. Springer would like to use the property but he is unwilling to follow-up with the previous conditions until he has a new tenant and until he knows that he can use the property under certain conditions. Mr. Moody stated they are asking for modification of the prior approval subject to the conditions he submitted to the Board (Exhibit A-1). He also submitted photographs (Exhibit A-2) of other businesses in the area.

**Comments and Questions:**

Mr. White commented that the case was continued to allow the applicant time to meet with the neighborhood and asked if they had contacted the neighborhood. Mr. Moody replied that Mr. Springer met with the neighborhood once. Mr. Springer was trying to contact Greg Warren regarding landscaping. Mr. White noted that the application does not mention a maximum number of days. Mr. Moody responded they would request five days as a maximum. Mr. White asked if the

new plan would be different. Mr. Moody replied that the site plan would be new.

**Interested Parties:**

**Maria Barnes**, 2252 E. 7<sup>th</sup> St., stated she is the President of the Kendall-Whittier Neighborhood Association. She stated that the applicant has never complied with the previous conditions made by the Board in 1999. She added that he has not complied since the July 10, 2001 meeting, nor has he contacted Greg Warren. She stated they were opposed to five days maximum.

**Candy Parnell**, 111 S. Greenwood, stated that Mr. Springer has not shown good faith to this Board since he has not complied with the conditions set in 1999. She mentioned that Pep Boys stays within a two-day turn around time. She suggested that transmission repair might not be the proper use for this property. She stated that Neighborhood Inspections asks the Board to deny this application.

**Applicant's Rebuttal:**

Mr. Moody stated that the previous tenant decided not to comply with the terms and moved out. Mr. Springer is not going to do any fencing or landscaping, as he is entitled to use his property under the CS zoning and will continue to do so, unless he has a tenant that can utilize the bays. He stated that Mr. Springer did try to contact Mr. Warren.

Board discussion ensued.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** Case No. 19124, finding that in Case No. 18323, the right to park cars there for two days was conditioned upon landscaping and fencing requirements and the dumpster, and unless he complies then he should not have the two days he asked for in 1999.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19125**

**Action Requested:**

Variance to allow 8 "disabled" unrelated people, to be a "family", instead of six as defined. SECTION 1800. DEFINITIONS -- Use Unit 8; and an Appeal of zoning officer's decision that this is a multi-family boarding, rooming house, located 3738 S. Canton Ave.

**Presentation:**

**Steven Pollen**, stated he is the attorney for Oxford House, Inc. The City of Tulsa has made provision for six unrelated, disabled people plus two staff persons as a family in one residence. There is no staff, no treatment and no management. The house is self-supported. The Oxford Houses have not been treated as rooming and boarding houses. They are not sororities or fraternities. They choose to live in

a good neighborhood for single-family dwellings, away from the environment of drugs and alcohol. They are totally responsible for paying the bills, maintaining the house and property. They are requesting a reasonable accommodation out of the Federal Fair Housing Act, which requires the granting of their request to substitute two residents for staff members. He stated there is no administrative or financial burden to the city and it does not fundamentally alter the zoning scheme. He stated there is nothing in the tenant's backgrounds to warrant concern to the neighborhood. The applicant submitted a letter and a brief (Exhibits B-1 and B-2).

**Comments and Questions:**

Mr. Dunham asked the applicant if he has read the staff comments. He told Mr. Pollen that the Board does not have the authority to change the definition of a family in the zoning code. Mr. Pollen responded that the Board has the authority to grant a variance or special exception. Mr. Boulden responded that the Board has the authority to grant a variance based on an unusual hardship that is unique to the land and property. Mr. Boulden added that the applicant is asking for an interpretation based on federal law, but the Board has to look to the state statutes and city ordinances. The Board's authority is restricted to land use based on the law in Oklahoma. Mr. Dunham commented that there are no criteria for a variance regarding the land. Mr. Beach suggested that there might be some alternative relief in the form of a special exception.

**Interested Parties:**

**Joe Kenworthy**, 5126 E. 38<sup>th</sup> Pl., submitted a petition (Exhibit B-3) signed by over sixty neighbors in opposition to the application.

**Byron Todd**, 3717 S. Canton, stated he is a resident within 200' of the subject property. He stated his agreement with Mr. Dunham that the Board does not have authority to address this application under the existing law. He showed a photograph to emphasize the parking problems that the residents of this property cause.

**Walter Scott**, 3735 S. Canton, stated he lives across the street from the subject property. He described the situation as the subject property being a rental house amid upscale homes mostly for retired residents. He complained of the parking and increased traffic caused by the residents of this house.

**Robert Wyreth**, 3750 S. Canton, expressed his concern for the safety of the other residents. He stated his opposition to the application.

**Mary Lee Evans**, 3719 S. Braden Pl., stated this application would be a detriment to the neighborhood.

**Comments and Questions:**

Mr. White commented that the zoning code by right allows a family of six unrelated people and this would not be a zoning change. Ms. Evans asked if he considered

this a business. Mr. White replied the Board does not consider it a business. Ms. Turnbo stated that she or anyone could rent a home out.

**Interested Parties:**

**Clay Byrd**, stated he is a City Counselor for District 7. He stated that this case brings up questions. He stated that granting a variance for eight people to live on the subject property would be excessive, and inappropriate. He added that it does seem to be a business and did not see a good reason to allow it.

**J.R. Sandschaper**, 3611 S. Braden Pl., questioned whether this is a single-family or multi-family dwelling. He stated objections as those previously stated above.

Mr. White read the zoning code definition of family.

**Applicant's Rebuttal:**

Mr. Pollen stated it is unfortunate that the neighbors have based their opposition on unfounded fears, stereotypes and other generalities to cast the Oxford House residents in a most unfavorable light. The homeowner will continue to pay taxes. The total income of this home probably equals or exceeds that of other households in the neighborhood. He added that this is not a business, just people trying to do the right thing. He commented that there has not been one instance of anything to disrupt the neighborhood. He indicated that residents would deal with any parking problems.

**Gregg Van Wyck**, 1521 E. 59<sup>th</sup> Pl., stated it was an honor to sponsor this house. He informed the Board that the residents meet once a week and once monthly pertaining to the business of the house. He noted an occasion when the entire street was lined with parked cars for a party at another house on that street. He stated they don't mind, occasionally the Oxford House residents have a party also. He added that according the Roy Ballentine with Neighborhood Inspections there have been no complaints but they have received compliments on how much better the property looks.

The Board discussed parking, the code definition for family. Ms. Turnbo commented that residents cannot just name two of them as resident staff, does not make them staff. She noted they stated that they all have equal responsibility in the home.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a **Variance** to allow 8 "disabled" unrelated people, to be a "family", instead of six as defined; and to **DENY** an Appeal of zoning officers decision that this is a multi-family boarding, rooming-house, finding that the requirements of Section 1607.C were not met.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19148**

**Action Requested:**

Variance of the required parking spaces from 14 to 0. SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, Off-Street Parking and Loading Requirements -- Use Unit 11, located 1401 S. Cheyenne.

**Presentation:**

**Ron Kitchen**, 2436 E. 18<sup>th</sup> St., stated he is the architect for the owner, Dan Lowe. The applicant proposes to enlarge the building, a historic residence that has been remodeled into an office building. The existing parking does not conform to City standards. Mr. Kitchen reviewed the site plan for the Board.

**Comments and Questions:**

The plan was discussed at length regarding parking with a drive aisle. Ms. Perkins asked about the number of parking spaces needed for the expansion. Mr. Kitchen replied it would require 14 parking spaces. Mr. Dunham asked for a hardship. Mr. Kitchen replied that the alley is higher than the old structure and the new structure would be higher and allow for better parking. Mr. White determined that there are five legal parking spaces on this property.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-1-0 (White, Dunham, Turnbo "aye"; Perkins "nay"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the required parking spaces from 14 to 5, per plan, noting there are five illegal parking spaces on the plan on the Cheyenne side of the property, finding the hardship to be the change of elevation and the size of the lot, on the following described property:

Lot 1 and N 15' Lot 2, Block 1, Carlton Pl., City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19150**

**Action Requested:**

Variance limiting one single-family dwelling per lot of record to permit two dwelling units. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD and SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit 6, located 1229 S. 83<sup>rd</sup> E. Ave.

**Presentation:**

**John Folks**, 4111 S. Darlington, stated he is an attorney for Garland Brunson. The applicant and his wife purchased the property two years ago. They have found that they cannot use the two dwelling units on the property because of the zoning code. The neighborhood used to be in the county and was later brought into the city limits. The first structure was brought to the property. He informed the Board there are several lots with two dwellings. He indicated that the applicant would be interested in a lot-split. Mr. Beach informed him that this Board does not approve lot-splits that would be the planning commission. He added that they are not advertised for other relief to allow a lot-split. Mr. Folks submitted a packet of exhibits (Exhibit C-1).

**Comments and Questions:**

Mr. Boulden asked what the hardship would be. Mr. Folks stated the two dwellings existed on the property before the zoning code required the setbacks. Mr. Boulden asked if there was anything unique to the land. Mr. Folks replied that in this neighborhood the lots are smaller and many of them were developed to have a main house and guesthouse. Mr. Folks added there is a creek running across the property. He also mentioned that the second dwelling is only large enough for one person. Mr. Dunham asked what triggered this application. Mr. Folks replied that the owners are newcomers and want to comply with the law. Mr. Beach asked if they own the property now. Mr. Folks replied that they do own it.

**Interested Parties:**

**Hank Brandt**, 8937 E. 15<sup>th</sup>, stated that he is the President of the Mingo Valley Homeowners' Association. He commented that the second dwelling is very small, approximately 21' x 8'. He stated that Code Enforcement cited the owner and the owner went before the Board for a lot-split and it was denied. Mr. Brandt did not remember when that took place. He complained that the driveway is gravel. He stated there are three buildings on the property, including a shop behind the house. They object to someone living in the second dwelling. He listed other properties that Neighborhood Inspections is dealing with regarding use of a second dwelling on the property.

**Applicant's Rebuttal:**

Mr. Folks stated the property is the same as when they purchased it. He stated that the smaller dwelling has almost 300 square feet with a kitchen and bath. He commented the property is well maintained.

**Board Action:**

On **MOTION** of **Perkins**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a **Variance** limiting one single-family dwelling per lot of record to permit two dwelling units.

\*.\*.\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19151**

**Action Requested:**

Special Exception to allow overhead door sales office in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 11 & 15; a Variance of 26' setback requirement from R district to 16'8" on east and 22'4" on north. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; a Variance of the 150' frontage in CS to 147'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; a Variance of 100' setback on west to 95'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS; and a Special Exception of screening requirement from south and north back 50' in front and to allow alternative landscaping on east, located 6501 S. Peoria.

**Presentation:**

Mr. Beach commented as in the staff report that no screening is needed on the north property line because there is no residential zoning district; there is no setback from the north side so the variance of 26' setback requirement applies only on the east side.

**Brian Smidt**, 1218 N. Ash, Broken Arrow, stated they propose to build a modern building for a sales office. He stated the owner of the property around him has a permit for a mini-storage and a home.

**Sam Bebido**, stated they want to open an overhead door sales office. He stated there is a five-foot strip of land zoned RM on the east side. They wish to use that five-foot strip for a landscape strip. There is an abandoned home to the east of the subject property, about 200' from the property line. He indicated that this business would be a benefit to the neighborhood. The setbacks on the south and east side are generated by the building height. The owner purchased the property as it is with only 147' instead of the 150' required for CS zoning.

**Comments and Questions:**

Mr. Dunham asked if there was a lot-split. He wondered how the deed was transferred with 147' without lot-split approval. Mr. Beach responded that he did not know and stated he could research it. Mr. Dunham asked for a hardship. Mr. Bebido replied that the property is zoned CS and the 147' frontage does not meet the requirement and property was purchase. Ms. Perkins asked if they are running a business. He replied that they do not. She then wanted to know why they have a Yellow Pages advertisement that states this address. He stated that the ad was placed in anticipation of the project.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow overhead door sales office in a CS zoned district; a **Variance** of 26' setback requirement from R district to 16'8" on east; a **Variance** of the 150'



frontage in CS to 147'; a **Variance** of 100' setback on west to 95'; and a **Special Exception** of screening requirement from south to allow alternative landscaping on east, per plan, finding the unusual circumstances of the configuration of the zoning pattern of this lot is the hardship, on the following described property:

Beg. at a point 10' S NW/c of Lot 7, Block 3, Valley View Addition to the City of Tulsa, Tulsa County, State of Oklahoma; thence E 155'; thence S 147'; thence W 155'; thence N 147' to the POB

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19152**

**Action Requested:**

Special Exception to permit parking of oversized truck in an RS-3 district; Appeal of Administrative determination the inoperable or unlicensed vehicles are being stored on residential property on a non-all-weather surface. SECTION 402.B. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions -- Use Unit 6, located 209 S. 67<sup>th</sup> E. Ave.

**Presentation:**

**Dennis Dvorak**, 209 S. 67<sup>th</sup> E. Ave., stated he has lived there since 1980 and plans to retire there. He informed the Board that he discussed the application with the neighbors for a block around the subject property to obtain their opinion. He obtained signed statements by all but two elderly neighbors, one of which has Alzheimer's and the other stated her children asked her not to sign anything, but she was in support. He stated that he does not work at the house; he just parks the truck there after work. He submitted a photograph of his truck (Exhibit D-1) and other photographs (Exhibit D-2).

**Comments and Questions:**

Ms. Turnbo asked for the location of his office and business phone for service calls. Mr. Dvorak replied that an employee away from his home answers his service calls and records are kept at another location. They communicate by mobile phone and pager for service calls.

**Interested Parties:**

**Paul Lanansky**, 232 S. 68<sup>th</sup> E. Ave., stated he drove by the property and observed that the house is impeccable but there is a lot of concrete paving around the house. He saw a large box truck on the driveway. He stated he was unsure what an oversized truck would be, but he did not consider the truck to be appropriate in a residential neighborhood.

**Roy Ballentine**, 111 S. Greenwood, submitted photographs and a copy of the violation notice to the Board (Exhibit D-3). There was a complaint of two trucks originally on June 20, 2001, as shown in one of the photographs. Yesterday there was only one vehicle located on the property. There were no markings on the

### Comments and Questions:

Mr. White asked if the 1 ½ ton size is the breaking point for oversized trucks. Mr. Ballentine replied that he has a copy of the City Attorney's office real estate division to Kurt Ackerman from Pat Boulden, stating requirements of vehicles over 1 ½ ton capacity that they not be parked on residential property. Mr. White asked about the determination that an inoperable or unlicensed vehicle was stored. Mr. Ballentine replied that the violation notice is in error, put in automatically by the computer. Mr. White determined there is no administrative determination to appeal. Mr. Ballentine confirmed that, just the oversized vehicles are in violation.

### **Applicant's Rebuttal:**

Mr. Smidt stated that his truck is a two-ton truck. Ms. Perkins asked where he receives his materials for his work. Mr. Smidt replied that supplies are delivered to the job site. Ms. Perkins asked if he received any deliveries at the home. He replied that he does not receive business deliveries at home.

Mr. Boulden stated that vehicles customary to the area are allowed in a residential neighborhood. He added that this was not a customary vehicle for a residential area. The only way it could be considered customary is if it was for a home occupation. He suggested it almost requires a variance to allow this kind of vehicle in the area.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a ***Special Exception*** to permit parking of oversized truck in an RS-3 district.

\* \* \* \* \*

**Case No. 19154**

**Action Requested:**

Variance of lot width from 75' to 62.21'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit -- Use Unit 6; a Variance of lot area in RS-2 from 9,000 sq. ft. to 8,671 sq. ft. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit; and a Variance of land area from 10,875 sq. ft. to 10,226 sq. ft. for a lot split. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit. location NW/c E. 52<sup>nd</sup> St. & Columbia Pl.

**Presentation:**

**Jeff Levinson**, 35 E. 18<sup>th</sup> St., stated he represents the applicant. This application is in connection with a lot-split for four lots instead of three. He found they were short of the area required by about three percent because of the unique shape of the lot being narrow and deep. It is bordered by a church parking lot on the north and west. There are RT and RD districts across the street. He stated this would be a way to compromise so that the density would remain essentially consistent with the rest of the neighborhood.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of lot width from 75' to 62.21'. SECTION 403; a **Variance** of lot area in RS-2 from 9,000 sq. ft. to 8,671 sq. ft.; and a **Variance** of land area from 10,875 sq. ft. to 10,226 sq. ft. for a lot split, finding it to be consistent with the balance of the neighborhood and would not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

S 248.85' of Lot 2, Bethel Union Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

\* \* \* \* \*

**Case No. 19155**

**Action Requested:**

Special Exception to construct an 80' monopole cellular transmission tower within 88' of property zoned OL and within 88' of property zoned RS-3. SECTION 1204.C.3 & 5. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions -- Use Unit 4, located 9509 E. 61<sup>st</sup> St.

**Presentation:**

**John Brightmire**, 320 S. Boston, submitted a packet of exhibits (Exhibit E-1). The RF engineer, **Keith Sacks**, stated that a tower is necessary for United States Cellular to provide service in this area because they lack coverage and to off-load capacity from surrounding sites. Mr. Brightmire referred to the coverage maps, noting the gap in coverage and the future coverage by the proposed tower. The proposed tower would be an 80' galvanized steel monopole. The closest house in a residential addition is more than 250' to the west. Property to the north is zoned RS-3 but Mingo Creek lies in the area zoned RS-3. The residential addition to the west is separated from the site by Mingo Creek, which creates a natural barrier between the site and the residential use. There are no existing towers near the site. Mingo Creek is to the north of the subject property. The Volunteers of

America office is to the east. There is undeveloped property across 61<sup>st</sup> Street to the south. Mingo Creek is to the west of the site. The topography of the land is flat, with some trees. The tower is designed to accommodate three slim line antennas, and is engineered for co-location of two similar antenna facilities. The equipment building would be a pre-fabricated 12' x 20' building with an aggregate rock exterior. A 20' access easement runs southeast from the site to 61<sup>st</sup> Street. The tract is approximately 35' x 40'. The likely development is unknown at this time. The landscaping would be subject to the zoning code requirements. A site plan was provided (Exhibit E-2).

**Comments and Questions:**

Mr. White asked about the two towers east and south of the site that the Board approved recently. Mr. Brightmire replied that they did consider the possibility of co-location on the Hemphill tower to the east but it did not fit their needs for coverage.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a ***Special Exception*** to construct an 80' monopole cellular transmission tower within 88' of property zoned OL and within 88' of property zoned RS-3, per plan, finding that the twelve criteria required have been met, and finding there was no request for relief from any of the code requirements, on the following described property:

A tract of land Beg. at a point 400' W of the SE/c of Section 36, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma; thence N 250'; thence W 265'; thence S 250'; thence E 265'; to the POB, less and except: a parcel of land lying in the S 250.00' of the W 265.00' of the E 665.00' of the SE/4 SE/4 of Section 36, T-19-N, R-13-E, being more particularly described as follows to-wit: Beg. at a point 400.00' W and 24.75' N of the SE/c of said Section 36; thence W and parallel with the S line of Section 36, 265.00' thence N 35.25'; thence E and parallel with said S line, 85.00'; thence S 10.00'; thence E and parallel with the S line 180.00'; thence S 25.25' to the POB.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19156**

**Action Requested:**

Variance of side yard requirement from 10' to 7' in an RS-2 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit -- Use Unit 6, located 1516 E. 37<sup>th</sup> St.

**Presentation:**

Jeff Johnson, 1516 E. 37<sup>th</sup> St., stated his request.

**Comments and Questions:**

Mr. Dunham questioned the dimension in the request since they did not match the site plan dimensions. He suggested that when he clears his title everything could be corrected at the same time rather than one at a time. Mr. Johnson stated he was not aware of the need for two corrections.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of Perkins, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of side yard requirement from 10' to 8' in an RS-2 district, on the east side, per plan, finding the mature magnolia tree in the center of the yard, and finding it would not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 3A, Block 3, of the Amended Plat of Lots 1, 2 and the W 25.00' of Lot 3, and Lots 10, 11 and 12, in Block 3, and Lots 1, 2 and 3 in Block 4 of Woodland Heights, City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19158**

**Action Requested:**

Mr. Beach announced that the applicant had to leave to conduct a funeral. He requested a continuance to August 28, 2001.

**Board Action:**

On **MOTION** of Dunham, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19158 to the meeting of August 28, 2001.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19159**

**Action Requested:**

Variance of total display surface area allowed for ground sign from 672 sq. ft. existing to 750.58 sq. ft. SECTION 1221.D.3. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CS District Use Conditions for Business Signs -- Use Unit 17, located 9808 E. 81<sup>st</sup> St. S.

**Presentation:**

**Steven Goforth**, 8217 S. 100<sup>th</sup> E. Pl., stated he is the owner of the Christian Brothers Automotive Franchise on the subject property. He stated that when they bought the property the seller kept the rights to the existing billboard, which took up the allowable signage.

**Comments and Questions:**

Mr. Beach stated that wall signs do not take up the allowable ground signage.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of total display surface area allowed for ground sign from 672 sq. ft. existing to 750.58 sq. ft., finding the hardship to be the existing billboard that the owner has no control over and is not a part of his business, on the following described property:

E 150.27' of Lot 1, Block 1, Meadow Brook Village, City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19160**

**Action Requested:**

Special Exception to allow antenna in OL zoned district for video transmission. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS -- Use Unit 4; a Special Exception of 110% setback requirement to 0'. SECTION 1204.C.5.c. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions; and a Special Exception of landscaping requirements, located S of SE/c E. 51<sup>st</sup> St. & S. Sheridan.

**Presentation:**

**Gerald Byrd**, 1809 S. Willow, stated he works for TronTech and they make video transmitters, receivers and tower cams. He stated they propose to place a camera on top of an office building at approximately 40' from the top of the building to send live data to KTUL, Channel 8 in Tulsa. These cameras are used for television for traffic reports and weather reporting.

**Comments and Questions:**

Mr. Beach commented that it appeared the camera would be on a guyed tower. He stated that the zoning code requires these facilities to be on a monopole. He asked Mr. Byrd if this could be placed on a monopole. Mr. Byrd replied that they

had been working with the City of Tulsa for eight months to meet the requirements and they were told the guyed wire was acceptable. Ms. Perkins asked if there was any way they could co-locate on the nearby existing tower. Mr. Byrd was not sure if that was possible.

**Interested Parties:**

**Marcy Bussman**, 6635 E. 54<sup>th</sup> St., expressed concern that the tower was going to be place on the Braniff Mart building. Mr. Dunham responded that he thought it was on a building in the Farm Shopping Center. She was opposed to the tower whether it is there or in the Farm Shopping Center. Mr. Byrd responded that it would be in the Farm.

**Comments and Questions:**

Mr. Dunham noted that this case is not advertised properly.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19160 to the meeting on September 11, 2001.

\*\*\*\*\*.

**Perkins out at 4:23 p.m.**

**Case No. 19161**

**Action Requested:**

Special Exception to permit mining and quarrying in an AG district. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT -- Use Unit 24, located S of SE/c E. Apache & N. 129<sup>th</sup> E. Ave.

**Perkins returned at 4:25 p.m.**

**Presentation:**

**David Dryer**, 5110 S. Yale, Ste. 435, stated he is the attorney for the applicant. He stated the request to quarry rock in an AG area surrounded by IM, IL, IH, and AG. He has contacted several of the industries, including American Airlines concerning equipment sensitive to blasting, and will continue to coordinate with them. They would comply with EPA, state and federal environmental issues regarding dust, impact by vibration, and other. They would not be creating a landfill, and would leave land in condition for commercial use. He stated that they would do screening to protect the public.

**Interested Parties:**

**Troy Williams**, 402 S. 105<sup>th</sup> E. Pl., stated he is the Vice-President of the Wagonwheel Neighborhood Association. He stated they are opposed to mining and quarrying in this area. He added that his home is no more than 3 ¼ miles from the site in an addition of 533 homes. They do not want damage to their homes

from vibration. They are also concerned that it would decrease the value of homes due to such damage. He stated that in the 1970's this same type of industry caused damage to residential and commercial property.

**Paul Moulden**, 13521 E. Apache, stated that this business is not appropriate for this location. It took five years of constant effort to obtain a City of Tulsa water line for this area. This effort has encouraged expansion of business. He informed the Board that he owned a house at 13804 E. Apache. After he moved in he discovered there was a cable in the ceiling with an adjustment on it. As blasting progressed 1½ miles from his house he had to tighten the cable to hold the house together. He stated that eventually the blasting caused the northwest corner of the house to break away enough to see daylight through the wall from inside.

**Dunham out at 4:34 p.m.**

**Bryan Holiday**, 40 S. Garnett, stated he obtained a petition with forty signatures (Exhibit F-1) in opposition to the application. He stated that he owns property next to the subject property and he put a doublewide mobile home there. He was requested to obtain an elevation certificate because his property is platted in a flood zone. Mr. Holiday expressed concern that the subject property is also in a flood zone, that there is no city water supply, and that they want to do this on AG land. He also was concerned about the dust, noise, truck traffic and blasting vibrations.

**Don Jenkins**, 3149 N. 129<sup>th</sup> E. Ave., stated that his family has owned his property since 1942. He complained that in the 1960's Standard Industries moved to the area. He stated that when they set off a blast it would literally lift your feet off the ground, and that is 3/8 of a mile from the site. He totally remodeled the house in 1982 like new. It now has cracks in the wall and all the seals in the windows are broken, from the blasting. He stated that the industry is now buying up more land to expand. He added that they could not sell the property for the value that it would cost to replace it.

**Bob Dyer**, with Chandler Materials Company, 5805 E. 15<sup>th</sup>, stated that they own the land from 145<sup>th</sup> to 129<sup>th</sup> E. Ave. and from the San Francisco Railroad to Pine. They do not intend to re-open the quarry and reclaiming the land in keeping with restoration plans submitted to the state.

**Gordon Flake**, 14113 E. Apache, stated he represents the H. G. Flake Company. He opposes the mining in the area stating damage to structures from blasting.

**Nancy Creighton**, 245 S. 120<sup>th</sup> E. Ave., stated she was speaking for the 565 homes just south of the subject property. The Western Village Neighborhood Association members are opposed to the application because of the blasting, the safety of their children going to school in the area, school bus route, additional truck traffic, and the air quality.



Wayne Bohanon, 10617 E. 1<sup>st</sup>, Ost Komiski, 1806 N. 129<sup>th</sup> E. Ave., and Art Justis, City Councilor, 1302 S. 102<sup>nd</sup> E. Ave., expressed opposition for the reasons listed above.

**Applicant's Rebuttal:**

Mr. Dyer stated that his client is sensitive to the needs of the community and also recognizes the valuable resource of limestone in this area. He stated that all steps would be taken to control dust, and state officials would also assess air quality. He suggested that traffic could be routed to lessen congestion. Mr. Dyer indicated there are methods to reduce the vibrations from blasting.

Board discussion ensued.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a **Special Exception** to permit mining and quarrying in an AG district, finding that it would not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19162**

**Action Requested:**

Variance of the required 75' setback from an R zoned district to 5' for new construction. SECTION 902. ACCESSORY USES PERMITTED IN INDUSTRIAL DISTRICTS 25, located 5700 S. 107<sup>th</sup> E. Ave.

**Presentation:**

**Morris Mauney**, 5700 S. 107<sup>th</sup> E. Ave., stated the request.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the required 75' setback from an R zoned district to 5' for new construction, finding the hardship is the R district is Highway 169, the area is in transition to industrial and commercial uses, and residential is not consistent with the use at this time, on the following described property:

Lots 8 and 9, Block 2, Golden Valley, City of Tulsa, Tulsa County, State of Oklahoma, less the S 95.4' of the E 228.3' of Lot 9 and less, Beg. at the SW/c of said Lot 9; thence N 01°22'02" W for 321.68' to the NW/c of said Lot 8; thence N

88°43'07" E for 309.30' along the N line of said lot 8; thence S 05°22'47" E for 322.52'; thence S 88°43'17" W along the S line of Lot 9 for 331.87' to the POB.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19163**

**Action Requested:**

Variance of the building setback from 100' to 97' for new fascia and canopy. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS -- Use Unit 12 / 13 14, Variance of the building setback from 100' to 93' to permit the construction of the architectural elements and canopies at the southwest and southeast corners of the building. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located NE/c E. 31<sup>st</sup> St. & S. Sheridan Rd.

**Presentation:**

**Charles Norman**, stated the application is for renovation of the Bowman Acres. He submitted photographs and other exhibits including a site plan (Exhibits G-1 and G-2). They propose to totally renovate the shopping center using the existing steel columns and beams, which project one foot and nine inches into the required setback from the centerline of E. 31<sup>st</sup> St. There will be no reduction of parking required.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the building setback from 100' to 97' for new fascia and canopy; **Variance** of the building setback from 100' to 93' to permit the construction of the architectural elements and canopies at the southwest and southeast corners of the building, per plan, finding this is an existing condition and an improvement of a shopping center, and finding it would not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Part of the SW/4 of Section 14, T-19-N, R-13-E, of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Beg. at a point 200' N of the SW/c SW/4 SW/4; thence Nly along the W line of said SW/4 SW/4 a distance of 679.23' to a point; thence Ely and parallel to the N line of said SW/4 SW/4 a distance of 542.72' to a point; thence due S a distance of 463.65' to a point; thence Ely and parallel to the S line of Section 14 a distance of 25' to a point; thence Sly and parallel to the W line of Section 14 a distance of 416' to a point; thence Wly along the S line of Section 14 a distance of 368.30' to a point; thence Nly and parallel to the W line of Section 14 a distance of 200' to a point;

thence Wly and parallel to the S line of Section 14 a distance of 200' to the POB, less and except: all road rights-of-way included in this description; less the E 14' of the W 50' of the N 229.96' of the S 479.96' of the SW/4 SW/4 of Section 14; less the E 11.25' of the W 36' of the N 229.96' of the S 479.96' of the SW/4 SW/4 of Section 14; and less a parcel of land lying in the SW/4 SW/4 of Section 14, being more particularly described as: Beg. at a point 250' E and 40' N of the SW/c said SW/4 SW/4; thence E parallel to the S line of said Section 14 a distance of 30' to a point; thence in a NWly direction a distance of 30.40' to a point; thence S 5' to the POB.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19164**

**Action Requested:**

Special Exception to allow a mobile home in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -- Use Unit 9; Special Exception to allow the mobile home use to extend indefinitely. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located 4930 W. 11<sup>th</sup> St.

**Presentation:**

**Charles Mesellis**, 3336 E. 32<sup>nd</sup> St., Ste. 212, stated he represents Mr. Sorrels, the applicant. He proposes to place a mobile home on the subject property, which has been vacant since 1979. He submitted photographs (Exhibit N-1). He noted there are eight mobile homes in the area.

**Comments and Questions:**

Mr. Dunham asked if the mobile home was already moved onto the lot. Mr. Mesellis replied that it has been placed and skirted, but has not been occupied. Utilities have not been obtained yet.

**Interested Parties:**

**Chris Campbell**, 4924 W. 11<sup>th</sup>, stated he lives east of the subject property. He stated the mobile is an eyesore. He complained that the property is not well maintained and the yard is not mowed regularly. He stated there have been a lot of cars parked on the property and chickens and roosters kept in the backyard. He expressed concern that it would lower his property value.

**Martin Wheeler**, 5860 S. Hwy. 48, Mannford, stated he owns the property at 4924 W. 11<sup>th</sup>. He expressed the same concerns as above.

**Applicant's Rebuttal:**

He expressed an apology for Mr. Sorrels for placing the mobile before going through the proper procedures. Mr. Mesellis stated that the applicant would comply with all requirements if the Board approves this application.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a ***Special Exception*** to allow a mobile home in an RM-2 district; and a ***Special Exception*** to allow the mobile home use to extend indefinitely, with conditions that it meet all City codes, skirted, permanent foundation, tie-downs, all-weather driveway, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

W 50' of Lot 5, Block 1, Vern Subdivision No. 2, City of Tulsa, Tulsa County, State of Oklahoma.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19165**

**Action Requested:**

Special Exception to permit the re-opening of an existing structure previously utilized as a drive-in banking facility. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS -- Use Unit 11, located W of NW/c S. Lewis & E. 49<sup>th</sup> St. S.

**Presentation:**

**Roy Johnsen**, 201 W. 5<sup>th</sup>, Ste. 501, stated he represents Community Bank and Trust Company. He submitted photographs (Exhibit H-1). He noted that the property was developed in 1981 and reviewed some detail of the structures and pertinent history. Mr. Johnsen stated that it was zoned OL and according to the zoning code at that time, a drive-in bank was a use by right. He noted that in 1986 the zoning code was amended to require new drive-in facilities in OL districts to obtain a special exception from the Board of Adjustment. This particular drive-through facility closed in 1995 and remained closed for three years, so it no longer has a non-conforming status.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Perkins**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a ***Special Exception*** to permit the re-opening of an existing structure previously utilized as a drive-in banking facility, on the following described property:

A tract of land that is part of Lot 1, Block 1, Western Financial Center, City of Tulsa, Tulsa County, State of Oklahoma, said tract of land being more particularly described as follows, to-wit: Beg. at a point that is the SW/c of said Lot 1, Block 1, Western National Bank; thence N 00°22'30" W along the Wly line of Lot 1, Block 1, Western National Bank and along the Wly line of Lot 1, Block 1, Western Financial

Center for 474.87' to the NW/c of Western Financial Center; thence N 89°48'39" E along the Nly line thereof for 509.50'; thence S 00°11'21" E for 18.00'; thence S 89°48'39" W for 291.50'; thence S 82°10'58" W for 184.50' to a point of curve; thence SWly and Sly along a curve to the left with a central angle of 82°42'34" and a radius of 18.00' for 25.98' to a point of tangency; thence S 00°31'36" E along said tangency for 243.67' to a point of curve; thence Sly and SEly along a curve to the left with a central angle of 37°00'24" and a radius of 29.00' for 18.73' to a point of tangency; thence S 37°32'00" E along said tangency for 71.42'; thence S 00°22'30" E for 26.56'; thence N 89°48'03" E for 20.18'; thence S 37°32'00" E for 4.68'; thence S 01°21'14" W for 66.31' to a point on the Sly line of Lot 1, Block 1, Western National Bank; thence S 89°48'03" W along the Sly line thereof for 90.00' to the POB of said tract of land.

\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 19167**

**Action Requested:**

Variance of the required 25' rear setback to 20'9" for an addition to the garage.  
SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit 6, located S of SW/c E. 45<sup>th</sup> St. & S. Columbia Ave.

**Presentation:**

**Sam P. Daniel, III**, 1756 S. Utica, for the applicant, stated this application is for an extension to the existing two-car garage. He stated that it was not big enough for a full size car. The lot is an irregular shape, making it very shallow on the end of the property where the garage is located.

**Interested Parties:**

**Herman Meyer**, 4605 S. Columbia Ave., stated he was also speaking for **Richard** and **Betty Gilmore** at 4573 S. Columbia, **Sue Wilson** of 4545 S. Columbia, and **Pearl McLain** at 4568 S. Columbia. He stated that they understand the history of this property and the hardship with the land that the owner faces. He added that they are in support of this application.

**Comments and Questions:**

Mr. White noted the Board has received two letters of support (Exhibits I-1 and I-2) for this application.

**Board Action:**

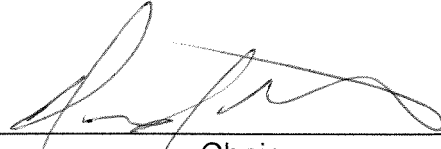
On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the required 25' rear setback to 20'9" for an addition to the garage, per plan, finding the hardship to be the configuration of the lot and there is not enough distance to build a usable garage without some relief, on the following described property:

Lot 2, Block 10, Villa Grove Park, City of Tulsa, Tulsa County, State of Oklahoma.

\*\*\*\*\*.

There being no further business, the meeting was adjourned at 5:26 p.m.

Date approved: 9-25-01

  
\_\_\_\_\_  
Chair