

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 827
Tuesday, September 25, 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
Turnbo
White, Chair
Perkins

Beach
Butler

Boulden, Legal

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Friday, September 21, 2001, at 11:30 a.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.

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UNFINISHED BUSINESS

Case No. 19048

Action Requested:

Mr. Beach announced that the applicant has withdrawn Case No. 19048. The applicant discovered a way to re-stripe the parking lot and comply with the required number of parking spaces.

Case No. 19194

Action Requested:

Mr. Beach announced that the applicant has withdrawn Case No. 19194.

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MINUTES:

On **MOTION** of Turnbo, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **APPROVE** the Minutes of August 14, 2001 (No. 824).

On **MOTION** of Turnbo, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **APPROVE** the Minutes of August 25, 2001 (No. 825).

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Case No. 19178

Action Requested:

Special Exception to allow a tent revival in a CS zoned district for 2001, 2002 and 2003 for three months each year. SECTION 1202.A. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Description -- Use Unit 2; and a Special Exception of the all-weather surface parking for off-street parking on property during activity. SECTION 1202.C. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions, located 2602 N. Lewis.

Presentation:

Maurice James, applicant not present. The case was tabled to later on the agenda.

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Case No. 19196

Action Requested:

Special Exception to allow required off-street parking spaces on two lots other than the lot containing the use. SECTION 1301. GENERAL REQUIREMENTS – Use Unit 11, located SE/c E. 14th St. & S. Denver & SW/c E. 14th St. & S. Carthage.

Presentation:

Joe Coleman, 610 S. Main, Ste. 200, stated he was representing his architectural firm. He stated their request for parking on two lots other than the one containing the use.

Comments and Questions:

Ms. Perkins asked if a tie-agreement would be needed. Mr. Beach replied that a tie-agreement would be appropriate for all of their lots.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **APPROVE** a **Special Exception** to allow required off-street parking spaces on two lots other than the lot containing the use, subject to a tie-agreement, 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:

Lots 2, 3, 4, 5, 6 and 11 less a tract described as follows: Beg. NW/c; thence E 15'; thence SW to SW/c of Lot 11; thence N to POB, Block 1, Campbell Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19197

Action Requested:

The applicant was not present. The case was tabled to later on the agenda.

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Case No. 19198

Action Requested:

Variance to exceed the permitted display surface area for a sign in an AG district. SECTION 302.B.2.b. ACCESSORY USES PERMITTED IN THE AGRICULTURAL DISTRICT, Accessory Use Conditions -- Use Unit 12, located 6841 S. Memorial Dr.

Presentation:

Mike Moydell, 1221 W. 3rd, proposes to put up a pole sign to be seen from Memorial. He submitted a site plan (Exhibit B-1) to the Board. He pointed out that there are seven or eight other pole signs in the area.

Comments and Questions:

Mr. Beach commented that the maximum height allowed is 20'. He asked Mr. Moydell what height he planned. Mr. Moydell indicated that he needed about 30' in height because the property is about ten feet below the street. Mr. Beach responded that the applicant did not ask for relief for the height and that would require advertisement. Mr. Dunham stated the application is for 137.3 square feet, and asked what the maximum permitted under the AG zoning. Mr. Boulden asked for the hardship. Mr. Moydell replied that the property is so far below the street level.

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** to exceed the permitted display surface area of 138 square feet for a sign in an AG district. SECTION 302.B.2.b, finding the property is about ten feet below the street level, and the AG zoning, and to **CONTINUE** Case No. 19198 to advertise for relief on the sign height to the meeting on October 23, 2001, on the following described property:

Lot 1, Block 2, Tract B, Woodland Hills Mall, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19199

Action Requested:

Variance of height requirement of 40' to 47' for a pole sign. SECTION 1221.E. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CG, CH, CBD, IL, IM, and IH Use Conditions for Business Signs -- Use Unit 21, located 7436 E. Admiral Pl.

Presentation:

Mike Moydell, 1221 W. 3rd, stated this application is regarding an existing 47' pole sign for Taco Beuno that has been in place since the late 70's or early 80's. They would like to replace it with a sign of the same square footage of surface area and at the 47' height.

Comments and Questions:

Mr. Dunham asked if they are trying to make it visible to Admiral or the expressway. Mr. Moydell replied they want it visible to both. Ms. Perkins asked why not shorten the pole and keep the surface size. Discussion revealed that the height limit is 31' based on the location of the sign.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; Cooper "abstained"; no "absences") to **DENY** a **Variance** of height requirement of 40' to 47' for a pole sign, finding a lack of hardship.

On a corrected **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; Cooper "abstained"; no "absences") to **APPROVE** a ***Variance*** of the height requirement from 31'to 40' for a pole sign, finding it would be consistent with other signs in the area appear to be in the 40' range, on the following described property:

E 236.40' of the W 531.40' of Lots 1 and 2, Block 3, Tommy Lee, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19197

Action Requested:

Special Exception to allow automobile repair and detailing in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 17, located 2711 E. Admiral Pl.

Presentation:

Robert Keeler, 2711 E. Admiral Pl., stated he is the owner of the subject property. He is speaking for the business owners that propose to increase the size of their car lot. Mr. White explained to Mr. Keeler that the Board could hear the case for Lot 16 but not for Lot 17, because it would require rezoning for Lot 17.

Comments and Questions:

Mr. White asked what type of repair would be done there. Mr. Keeler replied it would be minor repairs and detailing cars on the lot. Ms. Turnbo asked if the work would be done inside. Mr. Keeler referred the question to one of the owners.

Antonio Flores, 9733 E. 5th Pl., and **Gerardo Romero**, 7466 E. 3rd St., the two business owners stated their name and address.

Interested Parties:

Maria Barnes, 2252 E. 7th, stated she is the President of the Kendall-Whittier Neighborhood Association. She expressed her concern that the lots are all fenced together and indicated it would be difficult to inspect or monitor the different uses allowed. Mr. Boulden asked if there have been complaints about the number of cars on the lot. Ms. Barnes replied that there have been some complaints to the task force about too many cars and inoperable cars.

Comments and Questions:

Ms. Turnbo asked how many cars are on the lot. Mr. Flores replied there are about 40 cars on the lot. She also asked how many are inoperable. He replied that all of the cars are operable. He submitted photographs and letters of support (Exhibit A-1 and A-2). Ms. Perkins asked about the surface material of the lot. He replied that it is asphalt.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow automobile repair and detailing in a CS zoned district, on the conditions that all car sales and or repair and detailing be confined to Lot 16; a fence separating Lot 16 and Lot 17; no car sales, repair or storage of vehicles be permitted on Lot 17; all cars offered for sale must be on an all-weather surface, all repairs and detailing be done within a garage or enclosed building and no inoperable vehicles to be stored on the premises; and no outside storage, finding that it will be in harmony with the spirit and intent of the Code, and will not be

Hydrogen²

Case No. 19200

Action Requested:

Special Exception to allow indoor soccer facility in an IL zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS -- Use Unit 19; and a Variance of the all-weather surface for parking on a portion of the tract. SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located S of SW/c E. 56th St. & S. Garnett Rd.

Presentation:

Mendy Ward, 7912 E. 31st Ct., submitted an aerial photograph (Exhibit C-1) of the area. She stated the request for relief for an Indoor-Outdoor Soccer Facility. She stated it would be compatible with the area. It would be inside an existing industrial building. It would be used primarily in the nights and evenings. The City of Tulsa owns adjoining property with a water retention area for floods.

Comments and Questions:

Ms. Turnbo asked about the number of parking places. Ms. Ward replied there are about 40 paved parking spaces. She added there is also parking on compacted gravel. Mr. Dunham asked how many people maximum they would expect at a time. Ms. Ward replied that 200 would be the maximum they expect at any given time. Mr. Dunham informed her that since they have not asked for relief the parking requirement would be 134 spaces. Mr. White asked about the 20' panhandle. Ms. Ward stated there is an existing paved drive to the office building.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow indoor soccer facility in an IL zoned district, 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; and to **CONTINUE** Case No. 19200 to the meeting on October 9, 2001 to hear the Special Exception of the all-weather surface for parking, on the following described property:

Block 1, Garnett Place, less E 200', S 300.49' and less N 20' thereof, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19201

Action Requested:

Variance to allow a swimming pool in a required front yard. SECTION 210.B.6. YARDS, Permitted Obstructions in Required Yards -- Use Unit 6; and a Variance for a 6' privacy fence in the required front yard. SECTION 212.A.2. SCREENING WALL OR FENCE, Specifications, located 10118 S. Marion Ave.

Presentation:

Mr. Beach reminded the Board that a variance of the fence height can be granted by special exception, with no hardship finding required.

Donald Partridge, 10118 S. Marion Ave., stated he is doing extensive landscaping in the backyard and in the front yard. They propose to put in a swimming pool in the front yard. He added that it is very narrow in the back and the building line makes it almost impossible to put a pool in the backyard. He also mentioned there is a creek that runs through the west portion of the property.

Comments and Questions:

Mr. White asked if part of his land was in the floodplain on the southeast corner. Mr. Partridge replied that the creek runs on the west side of the property at a lower elevation than the driveway.

Interested Parties:

Richard Wells, 10115 S. Marion, stated that if they move the fence out toward street it would obstruct the view of traffic. He added that children play around that area.

Comments and Questions:

Mr. Dunham confirmed with Mr. Beach that the applicant is allowed to build a four-foot fence in front of the 35' building setback line, at the property line.

Interested Parties:

Carol Swinson, 10106 S. Marion, stated she lives north behind the applicant's house. She suggests that he put his pool on the west side where he already has a privacy fence rather than in the front where a fence would block their view from the driveway.

Applicant's Rebuttal:

Mr. Partridge stated that the trees block the view as much as a fence would. Mr. White asked for the hardship. Mr. Partridge replied the variance is the six-foot drop of elevation on back of house.

Board Action:

On **MOTION** of **Perkins**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** to allow a swimming pool in a required front yard, finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan.

On **MOTION** of **Perkins**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** for a 6' privacy fence in the required front yard, 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.

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Case No.19178

Action Requested:

Special Exception to allow a tent revival in a CS zoned district for 2001, 2002 and 2003 for three months each year. SECTION 1202.A. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Description -- Use Unit 2; and a Special Exception of the all-weather surface parking for off-street parking on property during activity. SECTION 1202.C. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions, located 2602 N. Lewis.

Presentation:

Leonel Robless, 1520 Richardson, Dr., Richardson, Texas, stated he proposed to have a tent revival for two to three weeks per month for the months of September, October, and November in the years 2001, 2002, and 2003.

Comments and Questions:

Mr. Dunham tried to confirm with the applicant that it would not exceed 21 days per month. Mr. Robless responded that normally they do not last longer than 21 days. He added that they would like some flexibility on the number of days. Mr. Dunham asked what hours they would use the tent. Mr. Robless replied 7:00 p.m. to 10:00 p.m. Mr. Dunham asked the applicant if he had seen the restrictions for approval that were made in 1998. Mr. Robless replied in the affirmative.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a tent revival in a CS zoned district for 2001, 2002 and 2003 for September, October and November each year, on condition that the revival not exceed 21 days in any one month period, hours of operation be from 7:00 p.m. to

10:00 p.m., public address system restricted to interior of tent with no outside speakers; and a **Special Exception** of the all-weather surface parking for off-street parking on property during activity for the same periods, 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:

N 436' of the S 486' of the E 340' of the SE/4 SE/4, Section 19, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19202

Action Requested:

Special Exception to allow a paint booth within 150' of an R zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit 17, located 766 N. Lewis.

Presentation:

Antonio Flores, 9733 E. 5th Pl, stated he would interpret for the applicant, **Gilberto Bojorquez**, 766 N. Lewis. Mr. Flores stated there is a body shop on the property and they want to put in a paint booth.

Comments and Questions:

Mr. Dunham noted that the closest house is more than 150' from the property. Mr. White asked for the type of paint booth. Mr. Flores replied that Mr. Bojorquez is purchasing a paint booth from Car Mart, but he does not have the specifics on materials and dimensions of the booth. Ms. Turnbo asked the name of the company that would put in the booth. Mr. Flores stated it is Auto Tech.

Interested Parties:

Maria Barnes, 2252 E. 7th St., stated she is the President of Kendall-Whittier Neighborhood Association. She stated that she would like some proof that the booth will be installed at this site, and that it meets EPA standards. She added that they have no objection as long as those requests are met. She also requests there are not a lot of cars parked on Lewis.

Board discussion ensued.

Applicant's Rebuttal:

Mr. Flores stated that the booth has been purchased and it will be delivered with receipts and paperwork in three to four weeks.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a paint booth within 150' of an R zoned district, with conditions that it be a factory installed, that meets all EPA regulations and City of Tulsa

codes, 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:

E 80' of Lots 1 and 2, Block 1, Cherokee Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19203

Action Requested:

Variance of the allowable one-story to 25' to ridge and 18'6" to plate and to allow a two-story building (accessory) in rear yard. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards -- Use Unit 6, located 2660 E. 66th St.

Presentation:

James Boswell, 1305 E. 15th St., Ste 201, stated he is the architect for the owners of the project. He stated that the detached carriage house is not in the required rear yard, but 30' off the rear property line. He added that the project was started about two years ago prior to the revised zoning code in July. He stated they have contacted the neighbors and they had no objections. The second story would be a mother-in-law suite, with a bathroom and no kitchen.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the allowable one-story to 25' to ridge and 18'6" to plate and to allow a two-story building (accessory) in rear yard, with conditions that it be for one family, no kitchen facilities in second story, and not to be rented out, finding it will 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:

The E 150.00' of the W 496.00' of the E ¾ of the S/2 N/2 NE/4 SW/4 AND the E 10.00' of the W 15.00' of the E 165.00' of the W 825.00' of the S/2 N/2 NE/4 SW/4, all in Section 5, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19204

Action Requested:

Special Exception to allow Use Unit 25 (roofing contractor) in a CH zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS --

Use Unit 25; and a Special Exception to waive screening on north property.
SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS,
located 1411 E. 3rd St.

Presentation:

Jim Lane, 8 S. 109th E. Pl., stated he bought the subject property with a 350 square foot metal building existing. He proposes to remodel the interior of the building and put stucco on the building front with metal panels. He plans to construct a wrought iron fence around the front and place a 4500 square foot metal building on the east side of the existing building for a sheet metal shop. They also do roofing of residential homes.

Comments and Questions:

Mr. Dunham noted there were no overhead doors, and no access to the alley. Mr. Lane stated there are two doors on the south side and one on the east side. The new metal building will adjoin the existing building on the east side.

Mr. White abstained from Case No. 19204.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Perkins**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 25 (roofing contractor) in a CH zoned district; and a Special Exception to waive screening on north property, with condition that no vehicular access be permitted from the alley to the building, 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:

Lots 14, 15 and 16, Block 15, Lynch and Forsythe's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19012

Action Requested:

Determination whether a proposed use of the hereinafter described property as an establishment serving intoxicating beverages and having multiple dance floors, one of which exceeds 1000 sq. ft. in area, is a night club or other use contained within Use Unit 12.A. Adult Entertainment Establishments or is a dance hall or other use contained within Use Unit 19. Hotel, Motel and Recreation Facilities as set forth within the Tulsa Zoning Code; and if the proposed use is determined to be a dance hall or other use contained within Use Unit 19, Hotel, Motel and Recreation

Facilities, then the Board shall consider whether or not a Variance of the required setback from a residential district should be granted; and that the Board may make findings upon which the Board based its action of March 13, 2001 in Board of Adjustment Case No. 19012, located E of SE/c of E. 66th St. S. & S. Memorial Dr.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 501, stated he was representing Graham Brothers Entertainment (GBE) of Tulsa, LLC. He stated the history of this case is that it came before this Board for a Special Exception to permit a nightclub use, Use Unit 12.a, located 150' from a residential district. He clarified that the 150' as applied to a use unit 12.a, refers to lot boundaries as opposed to the distance from the building, and it was approved. He added that the neighborhood association appealed the case to district court. The opponents raised the question that the use as it was proposed is a Use Unit 19, dance hall, as opposed to a Use Unit 12.a, nightclub. They also raised the question that no findings were made by the Board in the minutes. Mr. Johnsen formally requested findings from the March 13, 2001 hearing from the four members that were present; and he submitted a list of proposed findings (Exhibit G-1).

Interested Parties:

Greg Crawford, 900 OneOk Plaza, asked that findings for the Board Action on March 13, 2001 be more specific than what Mr. Johnsen suggested. He indicated that Oklahoma law requires more specific findings.

Comments and Questions:

Mr. Boulden stated that the law does not necessarily require specific findings. He stated he would not have any objection to the findings as suggested by Mr. Johnsen on behalf of GBE.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Perkins, Cooper "aye"; no "nays"; Turnbo "abstained"; no "absences") to make findings upon which the Board based its action of March 13, 2001 in Board of Adjustment Case No. 19012, that the approval of the Special Exception to permit a nightclub use on a lot, which is within 150' of R zoned land, with conditions there be no outside speakers or activity other than parking on the parking lot, security personnel in parking lot for the hours of operation, 7:00 p.m. to 2:00 a.m., Wednesday through Sunday, and an 8' masonry wall on north boundary, was based on the findings 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.

Presentation:

Roy Johnsen stated the second issue of the case is coming back to the Board from the court on remand. The issue is whether the business falls within Use Unit 12.a or Use Unit 19. He submitted a packet of exhibits to the Board (Exhibit G-2). He quoted his summary of the proposed use as a business which is limited to adult

patrons 21 years of age and above, which sells and serves intoxicating beverages and low point beer on the premises, and which has a floor show and provides music, with multiple dance floors, one of which exceeds 1,000 square feet in floor area. He pointed out the floor plan in the exhibit that includes three different dance floors, with a total dance floor area of 2,370 square feet. He quoted the Zoning Code regarding the inclusion or exclusion of a principle use within a Use Unit, stating the Board of Adjustment will make the decision. It states that a use specifically listed in a use unit shall not by interpretation be included within any other use unit. He further pointed out that U.U. 19 is described as a commercial amusement establishments, ordinarily not requiring large sites, which have use characteristics permitting their location in or near development commercial trade areas. He notes that dance hall is included in the list of uses. The code defines a dance hall as a commercial establishment open to the general public, which provides a dance area of 1,000 square feet or more; and night club as a commercial establishment open at night to the general public, usually serving intoxicating beverages and or low point beer, having a floor show and providing a space for dancing. He indicated that both use units appear to apply, but in his opinion it most closely fits Use Unit 12.a.

Interested Parties:

Greg Crawford, stated that Mr. Johnsen presumes ambiguity in the Zoning Code. Mr. Crawford understands the code to define any facility with a dance floor in excess of 1,000 square feet is considered a dancehall, and should have a 300' setback from a residential neighborhood. He called the Board members' attention to the packet of exhibits he submitted (Exhibit G-3). Mr. Crawford points out there is no ambiguity, that it is clearly under the definitions in the code, a dance hall. He asked the Board to consider the more restrictive language, requiring a 300' setback.

Comments and Questions:

Mr. Dunham asked Mr. Boulden if the size would be the most important factor to consider. Mr. Boulden replied that each part is an important factor. Mr. Dunham asked in which use were the other local dance halls over 1,000 square feet placed. Mr. Boulden indicated that most such establishments do not specify a use unit in a request, so they are probably found in both use units. Each use unit has unique problems that it can create within a district or in compatibility with adjoining districts.

Frank Speiglberg, 9032 E. 67th St., stated he lives in the Burning Tree Subdivisions and he is the attorney for the neighborhood association. The residents believe the Board should be considering the dance hall designation because it is more restrictive. He pointed out that a large dance hall such as the Caravan is near an industrial district and no homes near it. He stated that is where such establishments belong, not close to residential areas.

Applicant's Rebuttal:

Mr. Johnsen stated that it meets both definitions and it should be placed in the use unit that is most consistent with the other types of uses therein. He indicated that Use Unit 12.a is most applicable and more restrictive.

Comments and Questions:

Mr. Boulden considers it to fall within both use units and should comply with the requirements of both Use Units 12.a and 19.

Board discussion ensued regarding principle use and accessory uses.

Mr. White out at 4:21 p.m. and returned at 4:23 p.m.

Alan Jackere, stated that it could be a bar with an accessory dance floor. If the dance floor exceeds 1,000 square feet, then by the code definitions it contains two use units, a bar or nightclub and a dance hall. He added that an accessory use is customarily incidental and subordinate to the principle use.

Board Action:

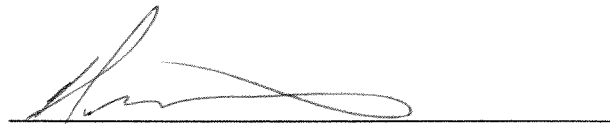
On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") determining this use to be a Use Unit 12.a, with an accessory use of dance hall, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and that the request for a Variance of the required setback from a residential district is unnecessary per the approval of a Use Unit 12.a.

The N 363.10' of Lot 2, Block 3, Woodland Hills Mall, Blocks 2, 3, 4 and 5, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 4:29 p.m.

Date approved: October 9, 2001



Chair