

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 836
Tuesday, February 26, 2002, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal
Cox, Neighborhood
Inspections

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Friday, February 22, 2002, at 11:36 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.

MINUTES:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye", no "nays", no "abstentions", no "absences") to **APPROVE** the Minutes of February 12, 2002 (No. 835).

Mr. White stated he would abstain from Case No. 19281.

UNFINISHED BUSINESS

Case No. 19281

Action Requested:

For Lot 6:

Variance of Section 207 to allow two dwelling units per lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6; a Variance of Section 403 from required 5' side setback on NE property line to 2' and 0.9'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of Section 403 from required 20' setback from East 13th Street to 2.2' and 0'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of Section 215 to allow a structure in the Planned Right-of-Way. SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS; a Variance of land area per dwelling unit requirement from

6750 sq. ft. to 3816.75 sq. ft. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS

For Lot 5:

Variance of Section 403 required minimum average lot width of 50' to 49'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 1224 S. Indian.

Presentation:

Mr. Beach reminded the Board that this case was heard in January and because of the peculiarity of the lot split and configuration of the lot line it was determined that more relief was needed.

Patrick Kingsley, appeared to present the case.

Comments and Questions:

Mr. Dunham noted that this was an existing condition.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a Variance of Section 207 to allow two dwelling units per lot of record; a Variance of Section 403 from required 5' side setback on NE property line to 2' and 0.9'; a Variance of Section 403 from required 20' setback from East 13th Street to 2.2' and 0'; a Variance of Section 215 to allow a structure in the Planned Right-of-Way; a Variance of land area per dwelling unit requirement from 6750 sq. ft. to 3816.75 sq. ft., all for Lot 6; AND a Variance of Section 403 required minimum average lot width of 50 to 49' for Lot 5, finding the hardship is the existence of these properties for an extended period of time, and with a condition for a license agreement and approval of a lot split, on the following described property:

Lot 5, Block 8, Norvell Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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NEW APPLICATIONS

Case No. 19292

Action Requested:

Appeal of the administrative officials decision that use should be considered non-conforming use; and screening and hard surface parking should be considered as non-conforming, existing conditions, located 2111 E. Pine St.

Presentation:

Dwayne Allen, 3707 E. 47th St., stated he owns the subject property. The property has been in the family since 1965. The width is about 100' east to west and almost 200' deep north to south. There is a 28' x 60' shop building on the northeast corner. The property is fenced in by a 6' chain link fence. He stated that about 10% of the lot in front of the building is paved with asphalt and concrete for customer service. The remainder is hard-packed gravel and this condition has existed for about 35 years. He acknowledged the notices from Neighborhood Inspections for all-weather surface for parking, screening fence, no outside storage. Exhibits were submitted containing a warranty deed, newspaper article, photographs and affidavits (Exhibits A-1, A-2, A-3 and A-4).

Comments and Questions:

Mr. Dunham informed Mr. Allen that the staff comments state: after establishing the non-conforming status, it still has to be screened and paved with an all-weather surface. Mr. Allen responded that he had discussed this with Mr. Cox, with Neighborhood Inspections. Mr. Cox indicated to him that the Use Unit for the property should be a Use Unit 23 instead of 13, which would be for trucks with 20' beds and larger. Mr. Allen reminded the Board that they have ice cream trucks about the size of ½ ton pickups; there were about 35 trucks; and the shop was built as an automotive maintenance shop. Mr. Allen stated that the ice cream business sold around 1990 or 1991, and the owner moved it to a different location. He added that the property continued be used as an automotive shop and has become more of a tire related business. Mr. Boulden commented the affidavits show that it was an ice cream business in 1976 to 1978, but not prior to 1970. Mr. Allen pointed out that the neighbor on the north asked that a screening fence not be put up because he felt it would encourage vandalism. Mr. Allen stated that the business helps keep the area more viable, encouraging business. Ms. Turnbo asked about automotive repair and sales on the property. Mr. Allen replied that he grew up building and selling four-wheel drives and trailers from that shop also.

Interested Parties:

Kevin Cox, 111 S. Greenwood, with Neighborhood Inspections, stated that he received a complaint about an illegal operation. He inspected and found a number of tires stored outside on racks and vehicles for sale on a non-all-weather surface. He noted the front half of the property was zoned CS and the back RS-3. There were no Special Exceptions granted at that time. He considered the property to be used as a Use Unit 15, for trades and other services. He classified the vehicle storage as a Use Unit 23. He also discovered they were not licensed to sell used motor vehicles. He stated that Mr. Allen told him the vehicles were just being repaired and were not to be sold there. Mr. Cox also found the property was being used as ice cream truck storage, and the trucks were loaded daily and sent out on routes. Mr. Cox stated he believes that the use has changed to an automotive and allied activity, which is a Use Unit 17, which is not permitted in the RS zoned district without a special exception, and is allowed in the CS district only by special exception.

Comments and Questions:

Mr. Boulden asked Mr. Cox about the designation of Use Unit 15. Mr. Cox responded that though it did not specify the ice cream truck business it did list similar size business vehicles. Mr. Boulden asked how he would treat the statement that they use the property for the repair of automobiles. Mr. Cox replied that he saw no documented evidence of vehicle repair. In response to other questions from Mr. Boulden, Mr. Cox did not believe the auto repair was a primary use but an accessory use to the ice cream truck business. Mr. Cox stated that the lot was mostly covered with the ice cream trucks, about thirty-five or 40 per the applicant. He could not see clear evidence of auto repair. Ms. Turnbo asked about outside storage of tires in the photos. Mr. Cox replied that he could tell on the aerial there was storage of items other than vehicles. Ms. Turnbo asked about the sale signs in the windows of vehicles on the photographs. Mr. Cox stated they are not licensed to sell automobiles and Mr. Allen told him they are not selling vehicles. Mr. Beach stated that the ice cream business is accurately placed in Use Unit 15. He added that if it is a tire business, automotive repair would be a Use Unit 17, a change of use. Mr. Beach stated that as of January 1, 1995 the parking was required to be an all-weather surface, but the screening requirements were not as clear.

Interested Parties:

Homer Jones, 2148 N. Oklahoma Pl., waived his comments due to those previously made and thanked the Board for their consideration of this matter.

Applicant's Rebuttal:

Mr. Allen responded that he could not argue that Use Unit 15 might have been applicable to the ice cream business. The property has been used for truck and auto sales in the past. The current renter has been informed that he is not licensed to sell vehicles. This business is identical to others within blocks of it on the same street. The property is in better shape than the others. He concluded that the property is not worth the cost of paving and screening.

Comments and Questions:

Ms. Perkins asked how many years the tires, wheels and hubcaps have been stored outside. Mr. Allen replied there has been some storage of these since the 1960's.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** an Appeal of the administrative officials decision that use should be considered non-conforming use; and screening and hard surface parking should be considered as non-conforming, existing conditions, and to **Uphold** the administrative official decision, that the previous Use Unit 15 was changed to a Use Unit 17, on the following described property:

E 100' Lots 12 and 13, less S 5' thereof Block 1, Kinloch Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19293

Action Requested:

Special Exception to allow a Use Unit 2, City Waste Water treatment plant, in an AG zoned district. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 2, located S of SE/c I-44 W & S. Elwood Ave.

Presentation:

Bill Robison, with the City of Tulsa Department of Public Works, stated he is the Project Engineer over the Process Improvements at the south side treatment plant. They propose to increase the size of one of their buildings.

Interested Parties:

There were no interested parties 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 Use Unit 2, City Waste Water treatment plant, in an AG zoned district, per plan, finding 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:

Government Lot 3, Section 36, T-19-N, R-12-E, E of railroad right-of-way, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19294

Action Requested:

Variance of required front yard of 25' plus ½ the planned right-of-way to 29' from the centerline, for the addition of an attached carport. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 2320 S. Urbana Ave.

Presentation:

Roger Box, 2320 S. Urbana, stated he is a contractor. They propose to build a 20' x 20' attached carport, which exceeds 20' of a 50' requirement from the center of the street. The hardship is a steep grade of the topography. He had submitted an elevation view and a structural cross section (Exhibits B-1 and B-2).

Comments and Questions:

Mr. Beach commented that the design is for an attached carport. Mr. White noted that the house is built on the building line. Mr. Beach stated that any size carport would extend across the building line. Ms. Perkins asked about the existing garage. Mr. Box responded that the overhead doors on the existing garage are too narrow for cars and a shop has been set up in the garage. Mr. White noted that the lot is only 90' deep compared to larger neighboring properties.

Interested Parties:

There were no interested parties 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 required front yard of 25' plus ½ the planned right-of-way to 29' from the centerline, for the addition of an attached carport, restricting the size of the carport to 20' x 20', finding it would be an attached carport and the depth of the lot would make it difficult to build otherwise, on the following described property:

Lot 1, Block 12, Ridgeview Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Mr. White abstained from Case No. 19296.

Case No. 19296

Action Requested:

Variance to allow a detached accessory building in the front yard. SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6; a Variance of the 25' required front yard. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of the required 5' side yard to 0'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 1715 W. Easton Ct.

Presentation:

Jeffrey C. Fitts, 1715 W. Easton Ct., stated he has partially built a carport without a building permit. He wants to protect a classic car he purchased. The Neighborhood Inspector asked him to stop construction. He submitted photographs (Exhibit C-1) of the carport as it exists and other carports in the neighborhood. Mr. Fitts stated he would have changed the carport to the required setback but it would have made it a 22' x 7' carport.

Interested Parties:

Robert Brasey, 1724 W. Easton Ct., stated he and the neighbors on the block have consistently made improvements. They are seeking national designation for

the historical structures in the neighborhood. He complained that the carport in question is not appropriate to the house or the neighborhood.

Gail Johnson, 1711 W. Easton Ct., stated that the applicant did not contact her regarding the new construction. She expressed concern that the structure might be partially on her property.

Allen Bates, 1715 W. Easton Ct., stated he lives on the subject property. He is in favor of the project. He stated that it was built over the driveway, not attached, and built on piers. He was confident that it was a sturdy structure, and would be complimentary to the house.

Applicant's Rebuttal:

Mr. Fitts stated that he owns eight pieces of real estate in the neighborhood. He has made substantial improvements to the house. He added there is not enough room in the back yard to put a carport. He assured the Board that the carport is on his property and not on the neighbor's lot.

Comments and Questions:

Ms. Turnbo asked for a hardship. Mr. Fitts indicated that the house does not conform to the Code, as it was built in 1925, and there are only 13' from the house to the lot line. The Board received a letter of opposition (Exhibit C-2).

Board Action:

On **MOTION** of **Perkins**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **DENY** a **Variance** to allow a detached accessory building in the front yard; a **Variance** of the 25' required front yard; and a **Variance** of the required 5' side yard to 0', finding a lack of hardship, on the following described property:

Lot 4, Block 1, Irving Place, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19297

Action Requested:

Variance of the required setback from an R zoned district for a changeable lettering sign from 200' to 80' on the west and 92' to the south. SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs – Use Unit 11, located SE/c E. Independence & N. Memorial.

Presentation:

Roger Lister, 533 S. Rockford, with Claude Neon Signs, stated the project is for Golden Eagle Credit Union. He informed the Board they propose to put in an electronic variable message sign. The neighboring church does not object to the sign. He suggested the hardship is the uniqueness of the property.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, to **APPROVE** a **Variance** of the required setback from an R zoned district for a changeable lettering sign from 200' to 80' on the west and 92' to the south, finding the hardship to be the shape of the lot, and the right-of-way on Memorial and separation between the subject property and the property to the west, the R property is not used as residential, and the motion **Died** for lack of a second on Case No. 19297.

On **MOTION** of **Cooper**, **seconded** by **Turnbo** the Board voted 3-2-0 (Turnbo, Perkins, Cooper "aye"; White, Dunham "nay"; no "abstentions"; no "absences") to **DENY** a **Variance** of the required setback from an R zoned district for a changeable lettering sign from 200' to 80' on the west and 92' to the south, finding it would cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

All of Rice Center, a resubdivision of Lots 4 - 8, Block 1, Mingo Heights Addition, and Lot 3, Block 1, Mingo Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma, less the following described property: Beg. at the SE/c of Lot 3, thence W 50' along the S line, thence NW 213.23' to a point in the N line, thence E 93.21' to the NE/c, thence S 203.88' to the POB.

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Case No. 19298

Action Requested:

Variance of the required 75' setback from an R zoned district to 35'. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 23, located 404 S. 122nd E. Ave.

Presentation:

Lynn Smith, 3122 S. Florence Ct., stated he is co-owner of Hodges Quality Meat, a meat processing plant in Eastgate Industrial Park. They bought the property in March 2001 and have improved the property. The rear of the building is about 75' x 200' and it abuts residential property, separated by a concrete block fence. They park their trucks on the side of the property near the block fence. They hauled off the junk that had been collected in that area over the years, including some inoperable trucks. They propose to build a 24' x 30' metal storage building, with an overhead door for spare parts and racks. There would be no electric, gas or water connections.

Comments and Questions:

Mr. Dunham asked why it could not be located in front to stay in compliance with the zoning code. Mr. Smith responded that they load and unload trucks in the front.

Interested Parties:

Nancy Craten, 245 S. 120th E. Ave., stated she is the neighbor just west of the subject property. She was also she represented the Western Village Neighborhood Association. She submitted packets of signatures/letters in opposition, and photographs (Exhibits D-1, D-2, and D-3) to the Board. She referred to a letter from Bob Hines with Eastgate Industrial Park, which assured the neighborhood residents the dead end street would not be opened in the future. She referred to the photographs of the block wall, and informed the Board that the applicant's company trucks have hit the wall twice and knocked it over, then repaired it very poorly. It also damaged her personal fence but they did not repair it. She complained of trucks not parked on all-weather surface, unsightly outside storage, hazardous material improperly disposed, and vegetation growing on the block wall.

Applicant's Rebuttal:

Mr. Smith stated the company did replace the wall. He informed the Board that to his knowledge, the EPA has not cited the company for hazardous material issues. The inoperable vehicles were removed from the property.

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 **DENY** a **Variance** of the required 75' setback from an R zoned district to 35', finding a lack of hardship on the following described property:

Lots 20 and 21, Block 1, Eastgate Industrial Park, 3rd Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19299

Action Requested:

Variance of the required rear yard and side yard property lines in an RM-1 zoned district from 20' to 5' in rear and 10' to 5' in side yard for an accessory building. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located N of the NE/c E. Easton & N. Florence Pl.

Presentation:

Vincent Longobardi, 3131 E. Easton, stated he would like to buy the property, but wanted to find out if he could put in a garage and driveway without destroying a mature pecan tree.

Interested Parties:

Demetris and Clyde Smith, 3202 E. Haskell St., stated they were interested in the applicant's plans. After hearing the details they had no objections.

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 required rear yard and side yard property lines in an RM-1 zoned district from 20' to 5' in rear and 10' to 5' in side yard for an accessory building, per plan, finding the existence of a mature pecan tree and the size of the lot, on the following described property:

Lot 9, Block 2, Stahl Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19300

Action Requested:

Special Exception to permit a church and accessory uses in an IL zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5, located 7015 E. 41st St.

Presentation:

James L. Brown, 6760 E. 66th Pl., stated the applicant is really the Oklahoma Conference of the Seventh Day Adventists.

Comments and Questions:

Mr. Beach stated that a Use Unit 2 triggers the need for a platting requirement, and the Planning Commission has to determine whether to require a re-plat or a plat waiver.

Interested Parties:

There were no interested parties 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 permit a church and accessory uses in an IL zoned district, finding 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 property described as follows:

Lot 15, Block 2, Expressway Industrial and Commercial Center, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19301

Action Requested:

Special Exception to permit a drive-in restaurant in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 18, located E. 41st St. S. & E of US-169.

Presentation:

Ted Sack, 111 S. Elgin, stated he represented Sonic Drive-In's, for a proposed drive-in restaurant. It would be located on Reasor's parking lot and would not take up too many of the parking spaces. The landscaping plans will be in compliance with the code. A site plan (Exhibit E-1) was provided.

Interested Parties:

There were no interested parties 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 permit a drive-in restaurant in a CS district, per plan, providing it meets the landscape requirements, finding 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:

A tract of land that is part of Lot 1, Block 1, Crossbow Center Addition, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Beg. at a point that is the SW/c of said Lot 1; thence N 00°04'44" W along the Wly line of said Lot 1 for 150.00'; thence N 89°54'58" E and parallel with the Sly line of said Lot 1 for 200.00'; thence S 00°04'44" E and parallel with the Wly line of said Lot 1 for 150.00' to a point on the Sly line of said Lot 1; thence S 89°54'58" W along the Sly line of said Lot 1 for 200.00' to the POB of said tract of land.

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Case No.19302

Action Requested:

Variance of required rear yard of 25' down to 19.1'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 9418 S. Jamestown.

Presentation:

Melissa McKelvy, 319 E. 21st St., stated she is the home designer for the applicant. She stated the hardship is the property has two front yards. The lot is only 3200 square feet and has an irregular shape. The applicant submitted a site plan (Exhibit F-1) and a packet of information (Exhibit F-2).

Interested Parties:

There were no interested parties 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 required rear yard of 25' down to 19.1', per plan, finding the size and shape of the lot to be the hardship, on the following described property:

Lot 24, Block 1, Tanglewood Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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Mr. White abstained from Case No. 19303.

Case No. 19303

Action Requested:

Special Exception to allow Use Unit 15, (small equipment rental) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located 10661 E. 31st St.

Presentation:

Joe Gibson, P.O. Box 301, Bixby, Oklahoma, stated he represented the applicant. They propose to locate a small equipment rental business on the subject property. They plan to have outside displays during the daytime, and place them behind the fence at night. The hours of operation would be 7:30 a.m. to 5:30 p.m. A packet of exhibits and site plan were submitted (Exhibits G-1 and G-2).

Comments and Questions:

Mr. Dunham stated he owns the property next door. Mr. Boulden advised him to abstain.

Mr. Dunham abstained from Case No. 19303.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Perkins**, the Board voted 3-0-2 (Turnbo, Perkins, Cooper "aye"; no "nays"; White, Dunham "abstained"; no "absences") to **APPROVE** a **Special**

Exception to allow Use Unit 15, (small equipment rental) in a CS zoned district, per plan, finding 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:

A tract of land situated in the SE/4 of Section 18, T-19-N, R-14-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Beg. at a point 824.17' due E and 50.00' due N of the SW/c SE/4, said point also being the SE/c of Block 1, Helen N. Commercial Center, thence N 38°41'36" W along the Ely line of said Helen N. Commercial Center, a distance of 320.31' to a point, said point also being the NE/c of said Helen N. Commercial Center, thence due E and parallel with the S line of said SE/4, a distance of 200.24' to a point, thence S, a distance of 250.00' to the POB; And all of Lot 3, Block 1, Helen N. Commercial Center, and part of Lot 2, Block 1, Helen N. Commercial Center, more particularly described as follows: Beg. at the NE/c of Lot 3, Block 1, thence W along the N line of Lot 3 to the NW/c of Lot 3, thence N to a point on the N line of Lot 2, thence E on the N line of Lot 2 to the NE/c, thence SEly along the E line of Lot 2, to the POB, less and except the S 20' of the above described properties for street right-of-way purposes.

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Case No. 19304

Action Requested:

Variance of the allowable fence height in the front yard from 4' to 8'. SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located NW/c of E. 21st Pl. & Peoria.

Mr. Beach informed the Board that it could be granted as a Special Exception.

Presentation:

Jordan Taylor, 1231 E. 21st Pl., stated this is his private residence. They propose to build a wall for security, privacy and a noise barrier. There is a lot of pedestrian traffic, a public park and a city bus stop directly across the street. The neighbors are in favor of the wall and informed him that there was a wall previously on the property and was removed when it fell into disrepair. A site plan was provided (Exhibit H-1).

Interested Parties:

There were no interested parties 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 an increase of fence height in the front yard from 4' to 8', per plan, finding 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:

Lot 2, Block D, Sunset Park, a Second Resubdivision of Block 17 and 18, Sunset Park, and the E part of Lot 8, Block 15, Sunset Park, City of Tulsa, Tulsa County, State of Oklahoma, described as follows: Beg. at a point at the SE/c of said Lot 8, Block 15; thence along the Sly line in a Wly direction 75' to a point; thence at a right angle to said Sly line a distance of 55' in a Nly direction to a point; thence Nly to a point on the Nly line of said lot, which point is 55' Wly from the NEly corner of said lot; thence Ely along the Nly line of said lots a distance of 55' to the NEly corner of said lot; thence Sly along the Ely line of said lot, a distance of 150' to the POB.

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Case No. 19305

The applicant was not present. The case was tabled while the Board heard another case.

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Ms. Perkins recused herself from Case No. 19306.

Case No. 19306

Action Requested:

Special Exception to construct a galvanized steel 80' monopole cellular transmission tower within 78.5' of property zoned agricultural. SECTION 1204.C.3. and 5. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4, located 6125 S. Sheridan.

Presentation:

John Brightmire, 320 S. Boston, stated they propose to construct a galvanized steel 80' monopole cellular transmission tower. He submitted a packet of information (Exhibit J-1). The site is short 9 ½' of the 110% requirement from the AG zoned property. There are no residential structures in close proximity. The closest residential district is located east of the site separated by an AG zoned property. There is one tower approximately 400' south of the site. To the north is a shopping center zoned CS, then 61st St. The Gravatt-Tabor Center, zoned CS, is to the south. The Shadow Mountain Park, zoned AG, is located to the east and Sheridan Road is on the west. The topography is ascending to the south and east. There is no tree coverage in the area. The tower is designed to accommodate three slim line antennas, flat and 1' x 5', mounted at 80'. It is engineered for the collocation of two similar antenna facilities at 70' and 60'. A pre-fabricated 10' x 20' equipment building would be covered with aggregate rock exterior. Access would be the existing driveway running west from the site to Sheridan Road. The tower is needed to provide cellular service in an area where there is inadequate service available and to offload capacity from other sites. The nearest tower would

not meet the needs because it is located too high for the area needing service. The tract size is 10' x 25', and the existing development is a shopping center. The landscaping would be subject to zoning code requirements.

Interested Parties:

Clay Bird, City Councilor, stated he was speaking for himself and former City Councilor Terry Doverspike. He mentioned a Board of Adjustment case in 1992 where the precedent was set that no single location in the City of Tulsa should have a consolidation of cell towers. He stated that if this case was approved it would contradict that precedent. He asked the Board to deny this application or continue it to consider the issue.

Comments and Questions:

Ms. Turnbo informed Councilor Bird that the court just overturned a case the Board denied. She added that reasons to deny would have to be very specific. She was interested in the legal department reviewing the 1992 case Mr. Bird referred to. Mr. Dunham commented that he also asked about collocation on a nearby tower, and was informed that the higher elevation would not meet their needs. Mr. Boulden commented that federal law requires there be substantial evidence in the record as a basis for denial.

Rosie Moon, 6601 E. 60th Pl., stated she is President of the Executive Estates Homowners' Association. She indicated that she has tapes of a 1992 Board case for a 150' tower behind the Full Moon Café. She also mentioned a 1997 Board case for a Southwestern Bell 150' monopole at 6157 S. Sheridan that was approved. She expressed concern regarding a metal building recently placed on the subject property with a tower connected to it. She stated that no application was made for a building permit at that location. Photographs and a packet of information (Exhibits J-2 and J-3) were submitted to the Board.

Applicant's Rebuttal:

Mr. Brightmire stated that they did pull a permit. They were testing tower heights starting with 60', 70' and determined that 80' was the necessary height. He stated that if they could move the tower 9 ½' to the west they would not need to come before the Board. The landowner does not want them to move the site further west because it would interfere with an overhead garage door used by the shopping center.

Hank Madden, 1210 S. Detroit, stated he is a Radio Frequency Engineer for Clear Channel. He stated that most carriers are now allowing for collocation on their towers. He added there is an increased use of cell phones and a decrease in the foot print for the towers for capacity reasons. Previously the towers were built to cover three to four mile areas. This has changed now to one to two mile coverage areas. Mr. Madden explained that collocating on the existing 150' tower would not only decrease the quality of service to their customers, it would also cause

interference with their existing equipment. Mr. Brightmire assured the Board that they collocate any time they can because it is much less expensive.

Allen Bates, 1210 S. Detroit, Project Manager for U.S. Cellular, stated they got special permission to place the temporary tower there for a short period of time. It requires a much larger footprint than the permanent tower.

Cooper out at 4:05 p.m.

There was much discussion regarding moving the existing equipment building to place the tower where they would not need the special exception.

Cooper returned at 4:07 p.m.

The applicant representatives insisted that was not a good option and their final objection was that the ground field was already in place and would have to be moved.

Board Action:

On **MOTION** of **Cooper**, the Board voted 4-0-1 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; Perkins "abstained"; no "absences") to **APPROVE** a **Special Exception** to construct a galvanized steel 80' monopole cellular transmission tower within 78.5' of property zoned agricultural, having considered all 12 of the factors under tab one of the applicant's exhibit packet, and finding 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 property described as follows:

Lot 2, Block 1, MSM Center, City of Tulsa, Tulsa County, State of Oklahoma.

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Mr. Cooper left the meeting at 4:17 p.m.

Case No. 19305

Action Requested:

Appeal a decision of Neighborhood Inspector that there is more than one dwelling on the lot. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6; OR a Variance to allow two dwelling units on one lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 1323 S. Florence Ave.

Mr. Beach pointed out to the Board that this case does not involve two dwellings on one lot, but one building with three living units. That falls under a multi-family apartment building, which is not permitted in RS-3. He concluded that all that is properly before the Board is the appeal.

Presentation:

Raben Martin, 222 W. 8th St., stated he is the attorney and Vice-President of Martindale Property Company. He and his wife purchased the subject property. He described the house to have an attached garage with an apartment upstairs with a kitchen and bath, but no kitchen downstairs. He considered the only issue to be the whether the enclosure of the lower part of the garage would change it to a multi-family dwelling to a single-family dwelling. The house and garage are connected inside to pass from one to the other without going outside. He indicated the downstairs of the garage could be considered a sleeping room.

Dunham out at 4:25 p.m.

Interested Parties:

Kevin Cox, 111 S. Greenwood, with Neighborhood Inspections, stated he received a complaint from the neighborhood that a single-family home was rented out to three separate families. Mr. Cox stated he and his supervisor investigated the property and discovered a phone number on the 'For Rent' sign. They spoke with Mr. Martin and were informed that there were three separate living quarters; two with kitchens and one was a room and board. At the time of the investigation there were no special exceptions for this property. This is not a single-family dwelling per lot of record and is not in compliance with the zoning code. It is more a Use Unit 7 or Use Unit 8 multi-family. He was informed there was no interior access from the house to the garage, indicating a duplex or triplex. Mr. Cox stated no building permit was issued according to the records. The second story is drastically different from the original structure and was constructed as an addition at some time. Photographs and zoning information were submitted (Exhibit I-1).

Dunham returned at 4:30 p.m.

Fran Pace, 1326 S. Florence Ave., stated she lives across the street and one house south of the subject property. She stated that when she moved there 35 years ago, the house on the subject property was a single-family dwelling, all attached. She mentioned several changes in the use of the garage, including apartment for grown married children, and a beauty shop. She indicated that interior doors between the house and garage were made and then closed up as desired by the different owners. Ms. Pace submitted 42 signatures (Exhibit I-2) of neighbors in opposition to the application.

Comments and Questions:

Mr. Boulden stated it is one structure and is either a duplex or a multi-family dwelling, which are not allowed in an RS-2 district. Mr. Cox referred to 207 of the zoning code, that a dwelling unit separated by a wall is two separate structures. Mr. Boulden stated that the Neighborhood Inspection notice was written for the wrong violation, nonetheless there is a violation.

Interested Parties:

Katrina Marsh, informed the Board that the house is in the Renaissance Neighborhood and not the Maple Ridge. She stated she has been in the home, and the kitchen and bath are on the lower level of the garage.

Comments and Questions:

Ms. Perkins pointed out that one single-family dwelling does not have multiple kitchens. Mr. Beach stated that two single-family dwellings is two separate houses on a lot, and two separate living units within the same building is a duplex.

Applicant's Rebuttal:

Mr. Martin stated that it is the use not the structure that is in violation. He wants to keep the property in compliance. He indicated that he would seek single-family leases in the future for this property. He waived any complaints about the adequacy of the notice and stipulates it to be sufficient.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **Uphold** the Neighborhood Inspector's decision; and to **DENY** a **Variance** to allow two dwelling units on one lot of record, on the following described property:

Lot 19, Block 13, East Lawn Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19307

Action Requested:

Variance from the minimum required yard abutting an arterial street from 35' to 32'.
SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 2401 W. Oklahoma Pl. N.

Presentation:

Mike Stumps, 10342 E. 58th St., stated he read the staff comments and he concurs.

Interested Parties:

There were no interested parties who wished to speak.

Turnbo out at 4:58 p.m.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins "aye"; no "nays"; Turnbo "abstained"; Cooper "absent") to **APPROVE** a **Variance** from

the minimum required yard abutting an arterial street from 35' to 32', finding the property fronts on three streets, on the following described property:

Lot 1, Block 1, Gilcrease Hills, Village I, City of Tulsa, Osage County, State of Oklahoma.

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Turnbo returned at 5:00 p.m.

Case No. 19312

Action Requested:

Variance of required side yard abutting the street of 15' down to 12' for a proposed addition. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 3778 S. 90th E. Ave.

Presentation:

Jerry Mayfield, 3778 S. 90th E. Ave., came to present his case. A site plan was provided (Exhibit K-1).

Comments and Questions:

Mr. Dunham stated that the addition would all be within the existing fence.

Interested Parties:

There were no interested parties 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 required side yard abutting the street of 15' down to 12' for a proposed addition, per plan, finding the hardship to be the configuration of the lot and the distance of a 100' easement on the west side, on the following described property:

Lot 5, Block 19, Briarwood, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 5:03 p.m.

Date approved: March 12, 2002



Chair

