

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 716
Tuesday, November 26, 1996, 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
Abbott, Chair Bolzle Dunham White	Turnbo	Gardner Beach Huntsinger	Ballentine, Code Enforcement Parnell, Code Enforcement Romig, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, November 22, 1996, at 10:48 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **APPROVE** the minutes of October 22, 1996 (No. 714).

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays" no "abstentions"; Turnbo "absent") to **CONTINUE** the minutes of November 12, 1996 (No. 715) to December 10, 1996 at 1:00 p.m.

UNFINISHED BUSINESS

Case No. 17554

Action Requested:

Special Exception to permit an over-height fence in the required front yard ranging in height from 7'-6" to 8'-10". **SECTION 210. YARDS**, a Variance to permit a detached accessory building in the front yard. **SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS**, and a Variance of the required front setback from 25' to 5'-6" to permit the accessory building. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 4405 East 26th Street.

Presentation:

The applicant, **Robert Freeman**, 4405 East 26th Street, submitted a case map/transportation (Exhibit A-1), photographs (Exhibit A-2) and stated he would like to strike the two variance requests. He requested that the Board grant a special exception for the over height fence. Mr. Freeman stated that he was told at the last meeting that he needed to choose his designated front yard. He explained that whether he chooses Sandusky or 26th he will need to request a special exception for an over height fence.

Comments and Questions:

Ms. Abbott asked the applicant if he had determined that 26th Street will be his front yard? He stated not yet, he needed some clarification from the Board.

Mr. Freeman stated it was his understanding that in Section 210.3.B., this Section addresses the over height fence. He read Section 210.3.B. He commented he is asking for the Board to grant a special exception to modify the limitations of 210.3.B. Mr. Freeman stated the right-of-way on both streets is at 60' and that sets the building setback farther then the setback is in a normal residential area. He explained that there is already considerable landscaping in trees, shrubs, etc., closer to the street then the fence. He further explained that the same argument holds true up and down the street where he lives. He indicated that all three of his bedrooms face the intersection and that is why he wanted to fence for privacy in that area. Mr. Freeman stated he kept the fence 23' back from the street in both directions thinking that he was within the setback requirements. Mr. Freeman asked the Staff to explain the ramifications of the difference of the two streets and then he could make a better judgment?

Mr. Bolzle asked the Staff if the height requirements are for the front yard or the required front yard? Mr. Beach stated the required front yard.

Mr. Bolzle asked the Staff if the setbacks are 25', then the applicant cannot come closer to the street than that setback with a fence greater than 4' in height? Mr. Beach answered affirmatively.

Mr. Bolzle asked the Staff that if your home sets back far more then it would normally be setback or the Code requires, then you could have an 8' fence in front of your home as long as it didn't encroach into the required front yard? Mr. Beach answered affirmatively.

Case No. 17554 (continued)

Mr. Gardner stated that the way the block is set out makes the subject lot unusual in the sense that if the structure was built to line up with the houses to the north, then the front yard sticks out considerably farther than the two houses to the east. He further stated that if the two houses to the east had been turned running east/west, then their side yards would be side yards and the front yard would be to the west lining up with the other houses. Mr. Gardner stated that the way the lots were laid out it doesn't matter which one the applicant declares as his front yard, he will be sticking out in front of some of those houses.

Mr. Bolzle stated that the applicant's primary concern is the southwest portion of the lot to protect his bedrooms, etc. He further stated that if you assume that 26th Street is the front yard, then the applicant can fence all of that side by right and he can have his arbor or spa enclosure by right. Mr. Bolzle indicated the concern of the Board and the protestants from the last meeting, was the issue that the eastern portion of the fence obstructed the view, light and air circulation of the lot to the east.

Mr. Gardner stated that if the applicant encroaches to the west versus encroaching further to the east, then the Board needs to look at that request and weigh this because he is already encroaching on his south boundary considerably farther than the houses to the east of him. He commented that if the applicant is more concerned about part of the fencing coming down then the Board can weigh that in their decision. He further commented that if the fencing along 26th Street stays, then he is considerably further ahead of the two houses to the east.

Mr. Bolzle stated that it seemed to be the sense of the Board, that the Board would be willing to approve that portion that encroaches on the west side of the house, but not on the east side of the house.

Mr. Beach concurred with Mr. Bolzle's statement. Mr. Beach stated that one of the concerns expressed in the last meeting by the neighbor to the east was the fact that with the fence existing there, she has to back way out of her driveway before she can see up and down the street. Mr. Beach further stated he is not sure that a 4' fence in the same location would cause any less of a problem in that regard. Mr. Beach explained that the applicant could go out to the property line with a 4' high fence.

Mr. Dunham asked Mr. Freeman if the fence is already in existence that he has indicated that he is dropping from the application? Mr. Freeman stated he is dropping the request for the variance for an outbuilding.

Mr. Dunham asked Mr. Freeman again if the fence is already in existence? He answered affirmatively.

Case No. 17554 (continued)

Mr. Freeman explained that part of his problem in choosing the designated front yard is the fact that if he chooses Sandusky as the front yard then the fenced area facing 26th Street is well within tolerances of the Code. He further explained that if he chooses 26th Street as the designated front yard, then the Sandusky side is within tolerance of the Code, but the front is not. Mr. Freeman recounted that he thought he was correct when he installed the fence. He stated he had talked with the neighbors about his plans and after he finished one panel he asked the neighbors opinion. He commented the neighbors thought the fence would be fine so he proceeded to build the fence. He further commented that when he completed the fence to the east of the driveway is when a question come up. He stated the neighbor to the east questioned him about the height of the post and he assured her that the post were the same height as the ones on the other side, which she liked and approved.

Mr. Bolzle informed the applicant that he will need to choose his designated front yard or the Board will have to impose the designated front yard.

Mr. Bolzle stated he would make a motion to allow the western encroachment, but not the eastern encroachment. He further stated that by choosing 26th Street as the front yard he could keep the fence along Sandusky and the fence in front of the bedroom, but he would have to move the eastern portion of the 26th Street fence back in line with the house (garage).

Mr. Freeman asked the Board to consider allowing him to move the fence to the first post and only encroach approximately 8' in front of the house.

Protestants:

Lynn Holsey, 4413 East 26th Street, stated she is the neighbor to the east and that side does effect her. She explained she has concerns with the fence being so far out in front of the house. She further explained that the fence blocks the west view of her home. Ms. Holsey stated that she had discussed with the applicant about moving the fence back. She asked the Board what the setback for the fence in the front yard would be?

Mr. Bolzle stated the applicant should bring the fence back to the face of the house.

Ms. Holsey stated that for view purposes and cutting off so much of her west side property she would prefer that the applicant come back 1 1/2 panels (even with the house).

Interested Parties:

Carol Tronic stated she lives immediately to the north of the subject property. She explained that her house fronts to the west and the fence that is there presently does not cause any problems.

Case No. 17554 (continued)

Applicant's Rebuttal:

Mr. Freeman stated he is still in a dilemma on which side to choose as his designated front yard.

Comments and Questions:

Mr. Bolzle explained to the applicant the criteria for a special exception.

Ms. Abbott stated that it is the opinion of this Board that it will not approve the two requested variances if he chooses Sandusky as his designated front yard.

Mr. Gardner stated that the applicant has his garage on 26th Street and the garage is to be setback 20' from the street right-of-way.

Mr. Bolzle asked Staff if he made a motion to designate 26th Street as the front yard and allow a variance of the setback east of the driveway to set no closer to the street than 20', will that meet the intent of the Code regarding the garage setback from a street? Mr. Bolzle also asked if the Board were to allow the fence at 8' for the portion of fence west of the front door, then that would basically accomplish what the Board is wanting to accomplish?

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a Special Exception to permit an over-height fence in the required front yard ranging in height from 7'-6" to 8'-10". **SECTION 210. YARDS**, - Use Unit 6; subject to East 26th Street being the designated the front yard; subject to the portion of the fence on the plan that is east of the front door of the house setback no closer to 26th Street than half the right of way plus 20' (which aligns with the existing garage); subject to the portion of the fence on the plan that is west of the front door of the house be allowed to extend 8' into the front yard per the plan; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 2, Block 6, Westful Vista, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Ms. Abbott explained to the applicant that his application has been approved with modifications. She further explained that the modifications mean that his fence east of his garage must align up with his garage, which is set at 20'.

NEW BUSINESS

Case No. 17572

Action Requested:

Variance of the setback from 11th Street from 50' to 32' for 6 directional signs.

SECTION 1221.C.2. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING; General Use Conditions for Business Signs; Sign Setbacks, located 2918 East 11th Street.

Presentation:

The applicant, **Don Beatt**, represented by Bruce Anderson, 9520 East 55th Place, submitted a site plan (Exhibit B-1) and an architect's drawing (Exhibit B-2). Mr. Anderson stated the signs are 1' x 3' in size and the signs are directional signs to direct traffic into and out of the Arby's location on 11th Street. He explained that the City only owns 30' and 35' of right-of-way in this location. He further explained the signs are setback on property owned by Arby's and not the City.

Comments and Questions:

Mr. Beach asked the applicant if the signs are already installed? He answered affirmatively.

Mr. Anderson submitted photographs demonstrating the locations of the directional signs (Exhibit B-3).

Mr. Beach informed the Board that each of the directional signs contains the Arby's logo and technically they are business signs versus directional signs. He stated that as business signs they are required to meet certain spacing (30' between ground signs) and this issue is covered in the Staff comments. Mr. Beach commented that if the Arby's logo was removed from the signs then they would be true directional signs and he may not have any problems with the signs at that point.

Mr. Anderson stated Arby's had no problem with removing the logo from the signs.

Mr. Dunham stated that by removing the logo it would take care of the technicality, but from the practical standpoint he didn't know what difference it makes.

Mr. Bolzle asked the Staff if there was an area requirement on ground (business) signs of this nature? Mr. Beach stated the requirement is 1 SF per lineal foot of street frontage for more than one business sign.

Mr. Gardner asked the applicant if he installed the smaller Arby's pole sign (Arby's has 3 sizes of signs)? Mr. Anderson answered affirmatively.

Case No. 17572 (continued)

Mr. Gardner stated that since they put the smaller pole sign up, they may be able to meet the total frontage requirement. He further stated Arby's is allowed 300 SF of signage and the directional signs would count as 3 SF. He commented that the smaller pole sign is probably in the 150 SF and so he probably has more than enough area to count the directional signs as business signs.

Mr. Anderson stated that according to instructions from Jim Garriott, (sign inspection), the signs just needed to meet the setback. He further stated that Mr. Garriott actually viewed the directional signs and had no problems other than the setback.

Mr. Bolzle asked the Staff if the signs are directional signs, then he can have an unlimited amount of directional signs at 3 SF? Mr. Bolzle questioned if Code covers directional signs? Mr. Beach stated that the number of directional signs are not regulated, just size.

Mr. Gardner stated that the reason for this application is the setback and that if the Arby's logo wasn't on the signs there would be no question of the number of signs or the total SF of signs. He further stated the applicant would be here for the setback only.

Mr. Bolzle asked the applicant why he needed the directional signs and does every driveway cut allow you to go in and out? He stated that all the driveways do allow you to go in and out.

Mr. Bolzle asked the applicant if any of the directional signs were for the drive-thru exclusively? He answered negatively.

Mr. Anderson stated that to the west of the subject property is a parking lot for Arby's and the directional signs do help to let the public know that the lot is for Arby's parking. Mr. Anderson further stated he felt that the directional signs help the traffic flow.

Mr. Gardner stated that the Board granted a variance to allow the parking on a lot other than the primary use and since this lot is not on the lot with the building you do not know who it belongs to without signage.

Mr. Bolzle stated that the directional signs are not an essential element and there is no compelling reason why there needs to be a sign here. He further stated that this variance is self-imposed because they want a sign at every entrance for in and out. He commented that if there is a curb cut and it is next to an Arby's, then people will probably drive into it without a directional sign. Mr. Bolzle stated that there is nothing unusual about this site that indicates a need for a variance. He further stated that this application will only be adding eight signs to the visual clutter to 11th Street that, in my opinion, are not necessary to the business.

Case No. 17572 (continued)

Ms. Abbott asked the Staff if the Board did not rule in favor of this variance can the signs remain if he takes off the Arby's logo? Mr. Gardner answered negatively.

Mr. Gardner stated the ordinance says a sign cannot be placed in the planned right of way and so the Board would have to grant a variance even if it was truly a directional sign with no logo for Arby's on the signs. He further stated that Arby's could move the directional signs back 15' or 20' into the parking lot, but that will not help anyone find the driveway.

Mr. Dunham stated that since the parking lot is west of the Arby's that justifies the directional signs to indicate that it is an Arby's parking lot.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (Abbott, Dunham, White, "aye"; Bolzle "nay", no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the setback from 11th Street from 50' to 32' for 6 directional signs. **SECTION 1221.C.2. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING; General Use Conditions for Business Signs; Sign Setbacks;** per plan submitted; finding that the parking lot is on another lot than the primary use and the need for identification; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lots 1, 2 & 3, Block 3, Pilcher Summit and Lots 1 & 2, Block 1, Signal Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17574

Action Requested:

Special Exception for Use Unit 25 - Light Manufacturing. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 25, located 9725 East Admiral.

Presentation:

The applicant, **Robert J. Parker**, 1924 South Utica, submitted a site plan (Exhibit C-1) and stated that ever since Don Thornton left the facility in 1987, his client has leased the subject property numerous times and now it is under contract to a seller. He further stated that in 1993 the zoning was changed to CG specifically to allow for the possible future use of a Use Unit 25.

Comments and Questions:

Mr. Bolzle asked the applicant if there will be any additional buildings built on the subject property? He answered negatively.

Case No. 17574 (continued)

Mr. Bolzle asked the applicant if there will be any outside storage permitted? He stated that it is his understanding that there will not be any outside storage needed.

Mr. Dunham asked the applicant if the subject property is in a floodplain? He stated the subject property is on a nine acre tract of land that is officially under the FEMA floodzone. He further stated the buildings are built 4' up on pads and they are in Zone B according to FEMA. He commented that the Corp. of Engineers indicated that a large portion of the property will be completely out of the floodplain when the maps are amended to reflect the channel improvements.

Mr. Dunham asked the applicant to reiterate whether the client will have outside storage? He stated that all of the equipment and operations will be inside.

Mr. Bolzle stated his concern would only relate to the limitation on the type of light industrial use. He further stated that there may be other uses allowed in Use Unit 25 that the Board might be concerned with.

Mr. Beach read the list of uses allowed in Use Unit 25 from the Code.

Mr. Bolzle asked the Board if this application will be a light industrial or manufacturing facility with no outside storage? In other words no contracting services allowed?

Mr. Gardner informed the Board that if the Board eliminated the outside storage, that will eliminate all contracting services.

Interested Parties:

Gail Plummer, 2105 North Yellowwood, stated he is the real estate agent representing the buyer. He further stated that the manufacturing that will be done on the subject property will be done in the main building. He indicated that there is a 10,000' SF building to the north that at this time is not designated for what the use will be. He commented the 10,000' SF building could be subject to leasing to someone else who may have rolling stock parked outside. He explained that it would not be an inventory type of storage outside. He stated he would like to keep the outside storage issue open, but primarily for a rolling stock situation. He further stated that at this time both buildings are constructed at elevations of 621 and the floodplain is at 617 and so there is a lot of area that is out of the floodplain. He commented that the Corp. of Engineers are suggesting that eventually the floodplain could be dropped down to elevations of 615, which would essentially clear the property out of the floodplain. He reiterated that the operation currently going in is light manufacturing with fabrication and assembly work inside. He stated there will be trash containers outside. He requested that the north building not be restricted to any outside use because of the possibility of having rolling stock.

Case No. 17574 (continued)

Comments and Questions:

Mr. Bolzle asked the Staff if any action of the Board to approve industrial would prohibit a CG use by right? Mr. Gardner answered negatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** for Use Unit 25 - Light Manufacturing. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 25; per plan submitted; subject to there being no outside storage related to such use; subject to all manufacturing being done inside the building; finding that the approval of this application will not be injurious to the neighborhood, and in harmony with the spirit and intent of the Code, on the following described property:

All that part of Block 1, Amended Plat of Van Estates No. 2, an addition in Tulsa County, City of Tulsa, Oklahoma.

Case No. 17575

Action Requested:

Special Exception to permit a mini-storage facility (including accessory office) in an OM zoned property. **SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 16, located 10720 East 21st Street.

Presentation:

The applicant, **Stephen A. Schuller**, 320 South Boston, representing Steel Matlock Reality, stated the proposed property is approximately 3 acres and is located approximately 1 1/2 blocks from the Mingo Valley Expressway right-of-way. He explained that there is 190' of frontage on 21st Street, which is a primary arterial street. Mr. Schuller further explained that the property extends to the rear about 445' from the centerline of 21st Street. He indicated the rear of the property includes a drainage ditch that compels a fairly substantial setback from the rear of the property because of drainage. The land to the immediate east of the subject property is vacant and zoned OM. He indicated the land to the south of the subject property is zoned RM-1 and consists of apartment buildings. Mr. Schuller stated the land to the east and across 109th Street is zoned CS with a variety of commercial uses. He further stated that the lands to the southwest and north of the subject property are zoned RS-3 with single-family residential neighborhoods. The drainage ditch runs along the south and west boundaries of the property, which provides a natural buffer between the subject property and the residential properties. He indicated that 21st Street is a

Case No. 17575 (continued)

primary arterial street, which provides approximately a 120' wide buffer between the subject property and the residential properties to the north. Mr. Schuller requested the Board to disregard the site plan that was filed with the application because it was prepared by the architects for his client before anyone reviewed the zoning Code. Mr. Schuller indicated that a new site plan that is more accurate and conforms to the zoning Code is being prepared by the architects. He explained that he is here before the Board today to request the special exception permitting the use of the property for the mini-storage building and accessory office building. He further explained the intention is to construct and operate the facility wholly in accordance with all the zoning Codes, requirements, limitations, etc. Mr. Schuller stated the height of the buildings will be limited to 12'. He further stated that the minimum building setback from the 21st Street centerline will be 110' and from the 22nd Street centerline the setback will be 60'. Mr. Schuller proposed that the minimum building setback from the other property boundaries be reduced from 10' to 5' by using the building walls as provided by the zoning Code for the screening walls or fences that is required under the zoning Code. Mr. Schuller stated the exterior walls will consist of masonry construction, using brick, stone, stucco or concrete tilt up panels. Mr. Schuller read Section 1002. Landscape Requirements and Section 1216. Use Unit 16. Mini-Storage from the Zoning Code. Mr. Schuller insured that the proposed project will follow all of the requirements of the Zoning Code. Mr. Schuller requested a grant for a special exception for this use subject to all of the requirements, requisites and limitations of the Zoning Code. He stated that this application will be in harmony with the spirit and intent of the zoning Code. He further stated the application will not be detrimental or injurious to the neighborhood.

Comments and Questions:

Mr. Bolzle asked the applicant if it is his opinion that all of the conditions meet or exceed the requirements of the Code? He answered affirmatively.

Protestants:

David Ziglaw, 2206 South 108th East Avenue, stated his home faces this proposed mini-storage area. He further stated that there are approximately 20 trees on the subject property and it looks like a park. He expressed concerns that the value of his home will depreciate if the mini-storage goes in. Mr. Ziglaw was concerned that the trees on the subject property will be removed. He indicated that on the north and south side of the ravine there are full grown trees and he does not want the trees taken out. He also questioned if the house on 21st Street will be removed or will it remain?

Case No. 17575 (continued)

William C. Cooper, 2203 South 108th East Avenue, stated he owns the property directly south of the subject property. He explained that his property is rental property and is concerned that the changing in zoning will de-value his property. Mr. Cooper stated that he would not want to live in an area looking at a concrete wall when there is currently full grown trees in existence. He further stated he sells real estate and people do not want to live near mini-storage facilities. Mr. Cooper commented that he objects to this zoning and did not want the mini-storage on the subject property.

Applicant's Rebuttal:

Mr. Schuller, reminded the Board that the subject property is zoned OM, which permits a wide variety of uses that are permitted by right in the district. He stated the mini-storage facility will be subject to all of the zoning Codes and requirements. He further stated that the landscaping and fencing requirements will be followed as well. Mr. Schuller explained that the property cannot be developed to where it adversely effects the drainage or storm water runoff of the adjacent properties. He further explained that the drainage ditch or ravine on the subject property cannot be dammed up or covered up, because it would obviously have an adverse impact. Mr. Schuller indicated that the location of the drainage facility is such that the buildings for the mini-storage will have to be setback 60' from the south property line, which is wider than most of the lots in the subdivision. He stated the buildings are actually being setback as much as a lot away from the buildings to the south. He further stated that Mr. Ziglaw's property is further south and across the street. Mr. Schuller explained that if the buildings are being setback as indicated above, then there is a great deal of open space that will be preserved as landscaping in order to meet the zoning Codes' landscaping requirements. He commented that trees will not be cut down if, by their location, will help to serve in meeting the landscaping requirements. Mr. Schuller explained that the screening of the facility, by using the rear walls of the building, will be in earth tone colors. Mr. Schuller clarified that the apartments before mentioned are actually located south of the vacant property immediately to the east of the subject property. He further clarified that the house on 21st Street, which is located on the NW/c of the property is outside of the subject property and his client does not have a contract to buy the home. Mr. Schuller concluded that with the zoning Code requirements, landscaping and screening, this will provide adequate protection to the neighborhood.

Comments and Questions:

Ms. Abbott asked the applicant if the trees on the south and west side of the drainage ditch will be removed or used as a buffer? Mr. Schuller stated that the area in which the trees are situated will be used as a buffer and this will help meet the landscaping requirements. He further stated that he does not know if all of the trees are healthy and if some of the trees need to come down they will be removed. He explained that he does not want to state that the trees will absolutely not come down. He clarified that if the trees are healthy and they serve the requirements or purposes of the landscaping aspects of the zoning Code then likely the trees will be kept.

Case No. 17575 (continued)

Mr. Gardner asked the applicant if the approximate southern 30' and western 30' is an existing drainage ditch? Mr. Gardner stated that there may be trees on both sides of the ditch. He explained that the drainage area is undevelopable. Mr. Gardner stated the applicant has to develop north and east of the creek. Mr. Schuller stated he did not know if the creek on the west side of the property is actually on the subject property or on the adjacent property. Mr. Schuller further stated he is not sure where the creek is located as it moves north.

Ms. Abbott stated that if the Board approves this application it should be subject to a site plan approval.

Mr. Gardner explained to the Board that the conditions that are written into the ordinance are specifically written in a way that we feel if they are done that way that the use will be compatible, in most instances, with adjoining properties. He further explained that the applicant has to come before the Board and go through the process, rather than any approval by right. He further explained that the applicant was not aware of all of the conditions when the application was first filed. Mr. Gardner stated that if the Board is looking at this application favorably, the Board may want to have the site plan returned for approval before any building permits are issued. He explained that by having the site plan returned for approval, the Board will be able to determine where the landscape, drainage and buildings will be located, etc. Mr. Gardner stated the reason for allowing the solid blank walls to be within 5' of boundaries is because normally if it were an office or commercial it would be a 6' screening fence or wall. He explained that if the building is not tall, and that is another reason for limiting to 12', then the wall can be considered for a screening fence/wall. Mr. Gardner informed the Board that a mini-storage is allowed a two-story portion only for the manager's quarters and it is usually on the front, which would be up next to 21st Street.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit a mini-storage facility (including accessory office) in an OM zoned property. **SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS - Use Unit 16;** subject to applicant returning with a site plan for approval from this Board; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

E/2, E/2, NW/4, NE/4, Less the S 875' and Less the N 130' of the W 140', Sec. 18, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17576

Action Requested:

Variance to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS** - Use Unit 15; located 3920 East Pine.

Presentation:

The applicant, **Cecil E. Ricks, AIA/Matrix Architects**, no address given, submitted a site plan (Exhibit D-1) and stated a few months ago he submitted plans with the City of Tulsa for a building permit to build an addition for the Silverado Tulsa Bakery. He further stated that during the review of the property, it was determined that the lot contained an existing parking lot that was on a lot other than the lot containing the principal use. Mr. Ricks explained that the previous owner of the subject property built the parking lot for use with the building, but he did not obtain a variance before the parking lot was built. He further explained that his client would like to obtain a tie agreement and tie the two lots together.

Comments and Questions:

Mr. Bolzle asked the applicant if he meets all of the parking requirements? He answered affirmatively.

Mr. White asked the applicant if Silverado Bakery owned the entire 10 acres that the parking lot exists on? Mr. Ricks stated that Silverado Bakery has an option on the 10 acres for future development.

Mr. Bolzle asked the applicant if his request is to tie the full ten acres with the existing tract that the building is on? Mr. Ricks answered affirmatively.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS** - Use Unit 15; per plan submitted; subject to the legal description being developed for the parking lot itself and this legal description (lot) being tied to the existing building tract by a tie contract; finding that the parking lot is already in existence; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lots 1 & 12, N 180' of Lots 2 & 11, Less the W 10' of Lot 11, in Acme Acres Addition, City of Tulsa, Tulsa County, Oklahoma and NW/4, NW/4, NE/4, Sec. 33, T-20-N, R-13-E, I.B.M., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17577

Action Requested:

Special Exception to permit off-street parking as a principal use in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 10, located NW/c North Elgin Avenue and East Independence.

Presentation:

The applicant, **Charles Chief Boyd**, not present for hearing.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 17577 to December 10, 1996, at 1:00 p.m., to enable Staff to contact applicant.

Case No. 17578

Action Requested:

Variance to permit a detached accessory building to cover more than 20% of the required rear yard. **SECTION 210.B.5. YARDS** - Use Unit 6, located 1208 East 30th Street South.

Presentation:

The applicant, **Kate Curren**, 3848 South Detroit, submitted a site plan (Exhibit E-1) and stated she had a draftsman draw up plans to build the garage. She explained that when she received the plans the garage was setback 20' from the property line and that would put the garage in the living room. Ms. Curren stated she was told it did not matter if she moved the garage, as long as there were 5' and 3' easements behind the garage. She explained that she placed the garage where it is located currently (photographs Exhibit E-2) so she wouldn't have to remove the tree.

Comments and Questions:

In response to Mr. Bolzle, Mr. Beach explained that the applicant exceeds the 20% requirement of the required rear yard. He further explained that the applicant is at 23% coverage in the rear yard, which is approximately 40' over the requirement.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** to permit a detached accessory building to cover more than 20% of the required rear yard. **SECTION 210.B.5. YARDS** - Use Unit 6; per plan submitted; finding that the subject property has a narrow lot for the neighborhood and the variance to be minimal; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 12, Block 1, Southmoor, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17579

Action Requested:

Special Exception to allow an auto sales lot in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 1429 South Memorial Drive.

Presentation:

The applicant, **Susan Sharp**, represented by John Sharp, no address given, submitted site plan (Exhibit F-1) and photographs (Exhibit F-2). Mr. Sharp stated the subject property has been a car lot for many years, however the zoning is not correct. Mr. Sharp requested the Board to grant the special exception.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow an auto sales lot in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; finding that there are numerous car lots in the area and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 3, Block 10, Forest Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17580

Action Requested:

Special Exception to allow a restaurant in an IL district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** and a Variance of off-street loading and parking requirements for a restaurant. **SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS; Off-Street Parking and Loading Requirements**, located 25 North Cheyenne Avenue.

Presentation:

The applicant, **Andi Bahlinger/Runners**, represented by Milton Jones, stated that he discovered today that his application was flawed. He explained that his application should have been for a bar and restaurant. Mr. Jones stated he did not want to mislead the Board on the use of the subject property.

Comments and Questions:

Mr. Beach stated the applicant is technically advertised for a restaurant and a bar is a different Use Unit. Mr. Beach further stated that technically the applicant is not advertised correctly.

Case No. 17580 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 17580 to January 14, 1997 at 1:00 p.m. to enable the applicant to re-advertise and request proper relief.

Case No. 17581

Action Requested:

Variance to permit an off-premise business sign in a Corridor zoned district. **SECTION 1800. DEFINITIONS** - Sign Business; Use Unit 21, located 10708 East 61st Street.

Presentation:

The applicant, **Jack R. Easley**, represented by Scott Case/Case Associates, 9412 East 97th Street, submitted a site plan (Exhibit G-1) and stated Case Associates would like to erect a directional sign on the property of Southwest Irrigation. Mr. Case indicated that the sign will be in compliance with the City Codes.

Comments and Questions:

Mr. Dunham asked the applicant if there is a sign already existing on the subject property? Mr. Case stated that there is a South Port sign on 107th Street, which is on the west side of the street. He further stated he did not know if the sign is actually on Southwest Irrigation's land or not. Mr. Case indicated he had a letter from the owner of Southwest Irrigation stating that the sign can be erected on his property.

Mr. Dunham asked the applicant if Southwest Irrigation understands that Case Associates sign will limit the amount of signage they can have in the future for their own business? Mr. Case stated he has discussed the limit of signage beforehand with Southwest Irrigation.

Mr. Beach asked the applicant if there was a Corridor site plan in the works before the Planning Commission? Mr. Case stated he did not know.

Mr. Beach stated that any property that lies within a CO district is required an approval of a Corridor site plan by the Planning Commission. Mr. Beach further stated that there may have been an approval previously, but this application would be an amendment to that site plan and that would be a requirement if this Board decides to approve this application.

Mr. Gardner asked the applicant what the sign will be for? He stated the sign is for Greens of Bedford Apartments which is located on Hwy 169. He explained that there is no signage on 61st Street that points out how to get to the subject property.

Case No. 17581 (continued)

Mr. Beach informed the Board that the proposed sign is technically an outdoor advertising sign since the sign is an off-premise sign and there is no provision in the Code to permit an off-premise business sign. Mr. Beach stated that if the business sign is off-site, then by definition it is an outdoor advertising sign.

Mr. Gardner asked the applicant if there is an outdoor advertising sign within 1200' of the proposed sign? Mr. Case did not know if there were other outdoor advertising signs within 1200' of the proposed sign.

Mr. Romig stated the problem with this application is that the Board really does not know what variances are needed.

Mr. Bolzle suggested that the application should be re-advertised as an outdoor advertising sign and determine what other relief is required.

Mr. Beach stated the applicant needs to apply for a sign permit and the sign inspector will list what relief is necessary. He further stated that the applicant will need to bring the list to INCOG in order to fill out a proper application.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 17581 to January 14, 1997 at 1:00 p.m. in order to allow the applicant to apply for a sign permit and re-advertise for proper relief.

Case No. 17582

Action Requested:

Variance of the front setback of all lots in Hampton Oaks Subdivision from 35' to 25'.
SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6, located East of the NE/c of South Yale Avenue and East 121st Street.

Presentation:

The applicant, **Jeffrey Levinson**, 35 East 18th Place, representing Hampton Oaks Development, L.L.C., submitted a site plan (Exhibit H-1) and stated he is asking for the variance due to the unusual character of the property. He explained the topography, the various steep grades and the heavily wooded nature of the property. He further explained that it would be an unnecessary hardship to develop the subdivision with the conventional standards. Mr. Levinson stated the Planning Commission approved the preliminary plat on November 13, 1996, with a provision that the Board of Adjustment consent to the requested setback line. Mr. Levinson explained that the subject property is an RS-1 development and he could have platted

Case No. 17582 (continued)

up to 60 lots on the subject property. He further explained that the density is extremely light and it is a 40 acre tract with 43 lots. Mr. Levinson stated that due to the topography in some areas, especially where utilities lines will have to be in front of the property, the 35' setback line would make it more expensive and inconvenient to install the utility lines. He further stated that the 35' setback line may make sanitary sewer lines completely impractical in several instances. Mr. Levinson explained that in some instances the 35' setback line will destroy mature trees, which he would like to avoid under all circumstances. He concluded by asking the Board to grant the requested variance due to the circumstances, nature of the property and the hardship that would result if his client was forced to develop with the full setback line.

Comments and Questions:

Ms. Abbott asked the applicant if there is a PUD for this development? He stated that this is not a PUD, but it was developed as a standard plat. He explained that the development, up to this point, has been a fairly conventional process. He indicated that the lots will be larger than other RS-1 lots and will have public dedicated streets.

Mr. Bolzle asked the applicant why an additional setback would cause you to destroy trees? Mr. Levinson stated that a large portion of the sanitary sewer will have to run in the front of some of the lots and the houses will have to be pretty close to the main line. He further stated the slope and the grade makes the installation of the sanitary sewer difficult. He explained that he would like to have the subdivision uniform as to front setback and that is why he did not request variances per individual lots.

Mr. Gardner stated that there is a provision in the Code where it can be setback 5' by special exception, but a 10' setback would require a variance. He further stated that this applicant needs a 10' setback because of the steep grades.

Ms. Abbott asked the applicant why he could not go to the 30' setback? He stated it would create more hardship than the 25' and it does not solve the topographical problems. He further stated the 30' setback would destroy more trees.

Mr. Levinson indicated to the Board where the trees are located on the site plan.

Mr. Gardner stated the topography problems do create a legitimate hardship for this project.

Mr. Gardner stated that one of the reasons for having a standard setback is for uniformity and that is why you would look at the whole 40 acres at one time. He further stated that some lots may be more deserving of the variance, but to have different setbacks for the subdivision would create a problem.

Case No. 17582 (continued)

Mr. Dunham stated that there are definitely some lots in this subdivision that need to be at the 25' setback. He further stated the request is not uncommon for this size of lot.

Ms. Abbott stated she has a concern that the Board is setting a precedence for other developers who do not want to go through a PUD process.

Mr. Dunham stated any applicant has to show a hardship and in this case this applicant has shown a hardship.

Board Action:

On **MOTION of WHITE**, the Board voted 3-1-0 (Bolzle, Dunham, White, "aye"; Abbott "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the front setback of all lots in Hampton Oaks Subdivision from 35' to 25'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the topography of the lots and the location of the sewer lines in front cannot meet the 35' setback and the literal enforcement of the terms of the Code would result in unnecessary hardship; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

The SE/4, SW/4, Sec. 34, T-18-N, R-13-E, I.B.M., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17583

Action Requested:

Variance of the required front setback of 25' to 9' to allow an addition to an existing non-conforming dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 3065 South Madison Avenue.

Presentation:

The applicant, **Sherry L. Reinhardt**, 3065 South Madison Avenue, submitted a site plan (Exhibit I-1) and stated she is requesting the variance so that she can add on to her home. She proposes to remove the existing kitchen and garage in order to build on to the home.

Comments and Questions:

Mr. Bolzle asked the applicant how far will the building encroach in the required yard? She stated that the request is for a variance of the required front yard setback of 25' to 9', and 6' of the request is an over hang of the upper eaves, which will be over the garage.

Case No. 17583 (continued)

Mr. Bolzle asked the applicant if any of the house meets the setback today? She answered negatively.

Mr. Dunham stated that the lot is very shallow and makes it difficult to meet the setback.

In response to Mr. White, Mr. Beach stated the livability issue will be addressed during the building permitting process. Mr. Beach explained to the applicant that the livability issue may come up when she applies for a building permit. Mr. Beach explained to the applicant how the livability space is determined.

Mr. Gardner explained to the applicant that it looks like her lot is nonconforming. He stated that the ordinance requires a nonconforming lot to have 1/2 of the lot remain open (livability space). He further explained that the applicant may want to continue the balance of this case to determine if she needs a variance of the livability issue.

In response to Mr. Dunham, the applicant stated the house currently occupies 1300 SF and with the add on it will be approximately 2800 SF total.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a Variance of the required front setback of 25' to 9' to allow an addition to an existing non-conforming dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the lot is shallow and the literal enforcement of the terms of the Code would result in unnecessary hardship; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, **AND CONTINUE** the balance of Case No. 17583 to January 14, 1997, at 1:00 p.m., to determine if additional relief is required; on the following described property:

A part of Lots 5 & 6, Block 3, Adams and Reddin Re-Subdivision, Blocks 2 & 3, Southmoor Addition to Tulsa, Tulsa County, Oklahoma, according to the Amended Recorded Plat thereof, more particularly described as follows, to wit: Beg. at NW/c of said Lot 5, thence in an Ely direction along the N line of Lots 5 & 6, for 43.35', thence in Sly direction for 137.2' to a point on the S line of Lot 5 and 4.5' W of SE/c of said Lot 5; thence W along the S line of Lot 5, for 37.01' to a point of curve; thence around said curve to the right for 22.03' to a point of compound curve, thence around the curve to the right for 127.01' t the POB.

Case No. 17584

Action Requested:

Variance of the major street setbacks, Section 215, to permit a building to be constructed within 45' of the centerline of E. 15th St. and within 35' from the centerline of S. Utica Ave. pursuant to the provisions of PUD No. 553. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 11, located SW/c of East 15th Street & South Utica Avenue.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, submitted a landscaping/screening plan (Exhibit J-1), case maps (Exhibit J-2) and PUD review (Exhibit J-3). Mr. Norman stated he is representing Stillwater National Bank, which has acquired the property at the SW/c of East 15th Street & South Utica Avenue. He further stated he has submitted to TMAPC the PUD #553. Mr. Norman explained that the northern part of the subject property is zoned in a CH district and the proposal within the PUD is to restrict that part of the subject property, as well as the remainder, for office use only including the drive-thru banking facility on the 15th Street side. He further explained that the PUD has numerous development standards, including building setbacks that are proposed from the centerline of East 15th Street and South Utica Avenue. Mr. Norman stated that East 15th Street and South Utica Avenue are designated as secondary arterial streets on the Major Street and Highway Plan. He further stated there are existing buildings along the subject streets that come out literally to the existing property line. Mr. Norman explained that the right-of-ways on East 15th Street and South Utica Avenue basically are no more than 60' to 65' wide. Mr. Norman indicated to the Board various instances where the buildings along 15th Street, Peoria, Utica and 21st Street are built to the property line. He stated his client's PUD proposes that the buildings within the project area will be located 45' from the centerline of both 15th Street and South Utica Avenue. He further stated that the existing buildings at the SW/c are located within 30' of the centerline. He proposes to dedicate additional right-of-way for East 15th Street to provide for 40' of right-of-way on the south side of East 15th Street. He explained that the Technical Advisory Committee has requested that an additional 5' of right-of-way be dedicated on the South Utica Avenue side. He further explained that the building will be setback an additional 10' from the centerline for a total of 45', and that is a minimum. He indicated the building will be setback 45' from the centerline of East 15th Street, which in effect means the new building will be 15' further south and 15' further west than the existing buildings. Mr. Norman stated that based on previous determinations by the Board and the existing physical facts, he requests that the Board approve a Variance to permit the building to be located within 45' of the two streets (15th St. & S. Utica Ave.), subject to the final approval of PUD #553 by the City Council and subject to the other development standards and restrictions of the PUD's approval by TMAPC.

Case No. 17584 (continued)

Comments and Questions:

Mr. Dunham asked the applicant if he is requesting 35' or 45' within the centerline? He stated the application was filed at 35', but for the building it is 45', which on the same plan there are parking areas to the south that are setback 35' and they may have to go to 40'. He explained that he didn't think that the Major Street Plan would not prevent parking areas from being within the 35' or 40' as requested by TAC..

Mr. Bolzle asked the applicant if the planned right-of-way for such a major street is 100'? He answered affirmatively.

Mr. Bolzle asked the applicant if the request is actually for an additional 5' variance? Mr. Bolzle asked the applicant why he couldn't setback at 50' on the subject property? He stated that if his client was setback 50', it would effect the design and the usefulness of the property. He further stated that in the CH district there are no setbacks from the property line for a structure and it would be inequitable to require this building to be setback to the full width required by the Code when it is physically impossible for that condition to apply up and down the entire street.

In response to Mr. Bolzle, Mr. Norman stated that the subject project has been discussed with John Eshelman of the Traffic Engineering Dept., as well as Darryl French. He further stated that the Traffic Engineering Dept. felt that the constrictions that exist on the other corners, including under ground storage tanks and utility installations, make it unlikely, if not virtually impossible, to ever reconstruct the intersection to provide left turn lanes. He explained that the City of Tulsa does not have any plans to provide left turn lanes at this intersection. Mr. Norman stated that ,in so far as any existing traffic hazard, this will be significantly improved by moving the existing buildings back from 30' to 45'. He further stated that the Traffic Engineering Dept. advised that they would like the curb rounded out to eliminate the existing bus stop indentation that used to be parallel parking on South Utica. He explained that the curb line will be extended outward and provide greater visibility for turning movements. The Traffic Engineering Dept. did not think that there were any right turn movement problems. Mr. Norman concluded that he did not feel that there will be any traffic hazards created from this proposal. Mr. Norman reminded the Board that it has previously granted the same types of variances on 21st Street, until it was removed from its primary 60' arterial street status, and along 15th and Utica as indicated in the Staff report. Mr. Norman pointed out that the proposal will be improving the situation by 15'.

Protestants:

Judy Irby, 3667 East 49th, stated she owns lots 1601-1611 on Utica Avenue. Ms. Irby stated she has no problem with the bank being built, but she is concerned that the parking spaces on her lots will be utilized for the bank's business. She expressed concerns of what ramifications the bank will have on businesses in the area.

Case No. 17584 (continued)

Beth Persacs, 1531 South Troost, stated her property is on the SW/c of the block that is being developed. She further stated she has concerns regarding the traffic. Ms. Persacs explained that her neighborhood recently went through the process for Historical Preservation, which during the process she learned that the streets are 1920 streets. She further explained that her driveway is on 16th Street and the front of her home is on Troost. Ms. Persacs stated the parking and traffic is already difficult in her neighborhood and she feels that the bank will impact the traffic situation further. She further stated that the existing buildings, even though they are old and rundown, have the feel of the neighborhood. She indicated she preferred the apartments versus a bank. Ms. Persacs stated she has concerns that the bank will not fit with the spirit of the area. She pointed out problems with other banks in the area and the backup in traffic for the drive-thru banking.

Applicant's Rebuttal:

Mr. Norman stated that the subject property will have to be replatted as a part of the PUD process. He explained that during the replatting process the issue of additional right-of-way will be reviewed. Mr. Norman stated that during their first review of the design and layout, the Staff has indicated for the City, that they would require only the dedication of an additional 5' for Utica and would not require dedication to meet the ultimate requirements of the Major Street Plan. Mr. Norman further stated that he is only asking for the variance of the requirement that cannot be adjusted through a PUD process, since it is a separate setback not within the PUD chapter. Mr. Norman requested the Board to approve the variance in order that he may present this to the Planning Commission and the City Council with the recommendations of the Planning Commission Staff and the Department of Public Works.

Comments and Questions:

Ms. Abbott asked the applicant if the 45' will be on both 15th Street and South Utica Avenue? He answered affirmatively.

Mr. Bolzle asked the Staff if this is the appropriate time to be hearing this application or should it wait until the final TAC meeting and final plat is heard by the Planning Commission? Mr. Beach stated that this is the most appropriate time, since this is the only Board that has jurisdiction over building setbacks.

Mr. Dunham stated the Board could approve the application subject to the conditions of TAC & TMAPC.

Mr. Norman explained that the reason he is before the Board today is because without the variance of the 50' setback, the TMAPC and City Council cannot approve the 45' setback.

Case No. 17584 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the major street setbacks, Section 215, to permit a building to be constructed within 45' of the centerline of E. 15th St. and within 45' from the centerline of S. Utica Ave. pursuant to the provisions of PUD No. 553. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 11; subject to 45' building setback from both the centerline of 15th Street and South Utica Avenue (parking is within 35' to 40' of centerline); subject to any conditions of the TAC or TMAPC; subject to an approved site plan; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

A tract of land located Sec. 7, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows: All of Lots 1-8, Block 2, Lots 12-16, Block 2, Orcutt Addition, together with 20' public alley adjacent to Lots 12-16, Block 2, less and except the N 10' of Lots 1 & 16, Block 2, Orcutt Addition, further described by metes and bounds as follows: Commencing at a point 10' S, NE/c, Lot 1, Block 2, Orcutt Addition, thence S0°0'00"W, along the Wly R-O-W of S Utica Ave for 390.00' to the SE/c of Lot 8, Block 2, Orcutt Addition; thence N89°40'00"W along the N R-O-W of E 16th Street, for 140.00'; thence N0°0'00"E for 150.00'; thence N89°40'00"W for 160.00' to the SW/c of Lot 12, Block 2, Orcutt Addition, thence N0°0'00"E along E R-O-W of S. Troost Ave. for 240.00' to the present R-O-W of E 15th St.; thence S89°40'00"E parallel with said R-O-W, for 300.00' to the POB.

OTHER BUSINESS

Case No. 17197

Action Requested:

Request for clarification of conditions of Board of Adjustment's approval.

Presentation:

The applicant, **Alan Elias**, represented by Warren G. Morris, 1918 East 51st Street, stated the subject property is located on Swan Lake. Mr. Morris explained that the applicant has taken an adjoining lot to his home and developed it into a nature preserve, which he has been allowed to raise turtles. He further explained that currently Mr. Elias has one turtle, but the Captive Breed Wildlife Reservation requires certain requirements before Mr. Elias can ship a turtle in from Florida. Mr. Morris stated that the terminology needs to be corrected so that Mr. Elias can continue with his project.

Comments and Questions:

Mr. Beach read the original conditions from the minutes. Mr. Beach stated he understands that in order for Mr. Elias to obtain the license for the turtles, he has to be able to breed the turtles.

Mr. Morris agreed with Mr. Beach's statement. Mr. Morris stated that he is asking for permission to promote breeding of endangered species to assist the species survival.

Mr. Gardner stated that the Board was concerned with the possibility of Mr. Elias starting a business of breeding, raising and selling the turtles as a commercial operation. Mr. Gardner stated that the Board needs to ask the applicant specifically how this will be handled.

Mr. Bolzle stated that as he recalls, 1) the turtles are not prolific, and 2) if they decide to breed on their own you cannot stop them regardless of what the ordinance states. Mr. Bolzle explained that the intent was that the turtles are a controlled species and they could not be sold to just anyone, which means that there really is no commercial purpose that can be filled by breeding the turtles. Mr. Bolzle stated the nature of the species compels us to eliminate the condition with this wording.

Mr. Elias explained that it is part of the Federal and International law that you must be part of their international breeding program, because there is a limited number in existence. Mr. Elias stated that he is interested in promoting and breeding endangered species to assist species survival.

Mr. Beach asked the applicant where the off-spring will go after they are old enough to be moved? Mr. Elias stated the turtles go to zoos, private parks, etc.

Mr. Elias stated that it is very limited regarding who can have the turtles.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **MODIFY** the Minutes of Meeting No. 694, December 12, 1995, to state that Mr. Alan Elias has permission to promote breeding of an endangered species to promote species survival.

CONSIDER APPROVAL OF 1997 MEETING SCHEDULE:

Comments and Questions:

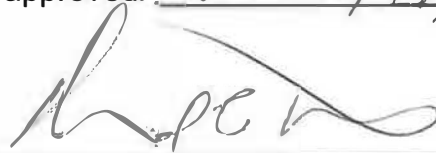
Mr. White informed the Board that the proposed calendar has two significant dates. He stated that in November the meeting has been moved from the second to the first Tuesday, because of Veteran's Day, because the City will be closed. He further stated the second item is that there are two meetings in December and the second meeting being two days before Christmas. Mr. White suggested that the second meeting date to be stricken due to the holiday.

Board Action:

On **MOTION** of **WHITE** Board voted 4-0-0 (Abbott, Bolzle, Dunham, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** the 1997 Board of Adjustment meeting schedule; subject to striking the December 23, 1997 meeting.

There being no further business, the meeting was adjourned at 3:40 p.m.

Date approved: JANUARY 14, 1997



Chair

