

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 725
Tuesday, April 22, 1997, 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
Bolzle Dunham Turnbo White, Vice Chair	Abbott, Chair	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, April 18, 1997, at 10:44 a.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **DUNHAM**, the Board voted 2-0-1 (Dunham, White, "aye"; no "nays" Turnbo "abstentions"; Abbott, Bolzle "absent") to **APPROVE** the minutes of April 8, 1997, (No. 724).

UNFINISHED BUSINESS

Bruce Bolzle in at 1:10 p.m.

Case No. 17640

Action Requested:

Approval of site plan required as condition of previous approval (Special Exception to permit a foundation repair business in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15), located SW/c East 11th Street South & South Mingo Road.

Presentation:

The applicant, **Larry V. Sanders/Perma Jack Foundation Co.**, 5424 South Mingo, submitted a site plan (Exhibit A-1) and stated he delivered the site plan to INCOG two weeks prior to the meeting.

Comments and Questions:

Mr. White asked the Staff if they had time to review the site plan? Mr. Beach stated he reviewed the site plan and he does not have any concerns with the site plan.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a site plan required as a condition of the previous approval (Special Exception to permit a foundation repair business in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15), per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Part of NE/4, NE/4, NE/4, Sec. 12, T-19-N, R-13-E, I.B.M., Tulsa County, Oklahoma, according to the US Government survey thereof, more particularly described as follows, to-wit: Beg. at a point 50' S, 25' W, NE/c, Sec. 12; thence 280'; thence W 140'; thence N 280'; thence E 140' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17635

Action Requested:

Appeal decision of Code Enforcement Officer's determination that the off-street parking must be an all-weather surface, that the initiation of the use as a facility for teaching martial arts constituted a change of use requiring a zoning clearance permit and that the use as a facility for teaching martial arts is not permitted in the RS-3 district. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, or in the alternative, a Special Exception to permit a change of non-conforming use (rezoning pending) to a martial arts school. **SECTION 1402.F. NON-CONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION** and a Variance of the required all-weather surface. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 7311 South Lewis Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th, representing Matthew Davis, Inc., submitted a 1968 aerial photograph (Exhibit B-1) and photographs (Exhibit B-2). Mr. Johnsen advised the Board that at the last City Council meeting the rezoning of the subject property to an OL district was approved. He explained that the application is to seek a special exception to permit a change of non-conforming use. Under the Code, if there is a non-conforming use, the Board has the authority as a special exception to permit the change upon the finding that the proposed use is no more injurious than the non-conforming use previously existing. Mr. Johnsen stated that in

1967, it was established that the subject property is a non-conforming use and was granted authorization to modernize and enlarge an existing non-conforming use to store assets and sell the same in the United States Bankruptcy Court. The subject property, which was zoned residential, has been used as a non-conforming use over the years. Mr. Johnsen stated the subject property has a commercial appearance building, which is metal and has been used for commercial uses continually through out. He commented that it appears the uses were under the Use Unit 15, trades and services. Mr. Johnsen stated that his client purchased the subject property in 1994 and was informed that the subject property was a non-conforming commercial use. Mr. Johnsen's client leased the subject property to a landscaping business in 1994 for one year and at the same time he leased the house on the subject property to a tenant. He indicated the two renters were not very good tenants and have vacated the premises. In March 1996, Mr. Davis leased to Kim's Tae Kwon Do Academy, which is the present use. Under the Code if you change a non-conforming use within the same Use Unit, it is not consider a change in use and you do not need any authority to do so. If the Use is changed within another Use Unit, that is what requires Board of Adjustment approval. Mr. Johnsen indicated that a martial arts school is not a typical health club because there is no weight room or food service, or any of the things you would find in a health club. He stated that the Code permits dance studios and fine arts in office classifications and an argument could be made that this is somewhat similar to a dance studio. Mr. Johnsen stated that if the Board interpreted the martial arts school within the health club unit, (Use Unit 19), that would require some form of Board action. This is a very light, non-intensive use, with very little impact on the surrounding neighborhood. Mr. Johnsen informed the Board that the north boundary of the subject property is entirely screened and landscaped and the north boundary is the drive for Espanade, which there are no units up against the south boundary of Espanade. The east boundary is shared by the subject property and Espanade. Mr. Johnsen explained that the first unit east of the east line of the subject site is totally bricked with no windows. Mr. Johnsen informed the Board that the actual use of the subject property is conducted by one person, Sung Lee. On a normal setting there is no more than 25 students at the facility and usually ends by 9:00 p.m., five days a week and opened four hours on Saturday. Mr. Johnsen indicated the owner of the subject property felt that the grass is more attractive than a paved parking lot. Mr. Johnsen stated his client agreed to install a hardsurface parking area if the Board insists. He commented that if the use is considered a health club, then 14 parking spaces will be required. Mr. Johnsen stated that the subject use is not incompatible with the commercial and offices uses in the area. He indicated the sole issue and concerns come from Espanade. Mr. Johnsen stated that if the use, which is limited, is not approved, than the owner of the property will have little choice but to then seek the Use Unit 15 use of the subject property. If a Use Unit 15 use is established then the owner will not need any Board of Adjustment approval, with the possible exception of the parking issue. Mr. Johnsen stated that with regard to the

sign, the property has been rezoned OL and the sign will have to meet the signage requirements for an OL district.

Comments and Questions:

Ms. Turnbo asked Mr. Johnsen how large the martial art classes will be? He stated that there are twenty (20) students and twenty-five (25) maximum.

Protestants:

Judy Jones, 2421 East 73rd Place, Espanade Condominiums, stated her home is directly to the east of the subject property. She explained that her back door is next to the subject property. Ms. Jones submitted photographs of the subject area (Exhibit B-3). She informed the Board that the TMAPC made the decision to classify the subject property as an OL district and the City Council approved the zoning. Ms. Jones stated that the fact that an illegal act occurred, knowingly or otherwise, should not change the ruling of the City Council. The owners should be made to adhere to the existing zoning regulations. She stated that the Espanade neighbors do not feel that a martial arts facility falls within the standards of the area. The subject property is surrounded on three (3) sides by a Class A office building on the south, a Class A deluxe condo to the east and to the north by a one-story bank. She requested the Board to uphold the requirements of the OL district. Ms. Jones indicated the owners of the subject property have escalated the use to CS by displaying a large yellow sign advertising the martial arts school. The owner has added on to the building, which has been used for housing equipment. Ms. Jones questioned if the owner has a sign permit to display the large yellow sign in the open area where it is located? She expressed objections to the patrons parking in the grass in front of the home located on the subject property, which was zoned R-1 until the recent rezoning. Ms. Jones indicated that the owners have been using the subject property for martial arts school and a used car lot. She expressed concerns that the owners will use the subject property in the future without proper permits. Ms. Jones stated that if the Board grants the owner a non-conforming use permit it will be the same as giving the owners a CS or commercial use. Ms. Jones expressed concerns regarding noise, trash, dirt and lighting. She stated her property is being adversely impacted by the use of the subject property. Ms. Jones commented that the enjoyment of her home is being diminished by the current use of the subject property.

The following protestants expressed the same concerns as the previous speaker:

Mr. Paul Morgan, 2601 East 74th Place, Spruce Point Subdivision
Selma Kramer, 2481 East 73rd Place, Espanade

Applicant's Rebuttal:

Mr. Johnsen stated that in regard to the poor status of the subject property in the past months, the problem was created by the renter of the home on the subject property and that renter has vacated the home. Mr. Johnsen indicated the situation has been corrected and hopefully the next tenant will properly maintain the property. A professional landscaping company has been hired to mow the grass and take care of the grounds. On non-conforming uses the concept is that the subject property was in place lawfully before the ordinance was in place and under the ordinance they are allowed to continue. Mr. Johnsen stated the real issue before the Board today is whether the proposed use (martial arts school) is a better use from a neighborhood prospective then some of the alternative uses that would be the right of the owner to seek a Use Unit 15. Mr. Johnsen indicated that the martial arts school is a very light use with minimal impact on anyone, particularly given the physical facts of the surrounding property of where the protest comes from. Mr. Johnsen assured the Board that if they find paving to be more desirable for parking it will be done by the property owner. He stated that the sign can be removed and the OL requirements will be complied with for the signage.

Comments and Questions:

Mr. Dunham asked the applicant if he is suggesting that if the property is vacant for a period of time than you can reuse the property for the same non-conforming use? Mr. Johnsen stated that there is a three (3) year discontinuance of use and than you lose your non-conforming use status. He indicated that a non-conforming use can be vacant for six (6) months and then later rent to the same use or use it the same way or any other use within that same use unit, which is what the Code provisions provide. It is not considered a change of use if it is in the same Use Unit and you do not need any approval to do so.

Mr. Bolzle asked the staff if the Board approves this use as a substitute non-conforming use, does the Use Unit 15 or pervious non-conforming use go away or does it remain for the period of three (3) years? Mr. Gardner stated that in his opinion, once the Board approves what the applicant is requesting as a special exception, then that is the approved use of the property or it can be made a professional office as the OL zoning would allow. He indicated he did not think the subject property can go back to the non-conforming status if the Board approves the special exception and specifically limit the special exception to what they are proposing. Mr. Gardner reminded the Board that under the Code the Board has a provision that they can grant as a special exception, without a variance or hardship finding, and specify how the subject property can be used.

Case No. 17635 (continued)

Mr. Bolzle asked the staff if at some point the applicant can come back and assert that this is a Use Unit 19 and it has been allowed by the Board of Adjustment as a non-conforming use and thereby any other Use Unit 19 uses are permitted by right as not a change in Use Unit? Mr. Gardner stated that that would be a possibility if this Board were not to limit their action.

Mr. Dunham asked the staff what the status of Use Unit 15 would be if the current use was to discontinue and the Board had limited the use? Mr. Gardner stated that the rezoning and a combination special exception gives the Board the authority to define the use. He reminded the Board that they have jurisdiction to impose whatever reasonable conditions that the Board feels necessary to demonstrate that the requested use will be a better use than what it has been used for in the past.

In response to Mr. White, Mr. Gardner stated that the change to OL zoning will allow a professional office and someone could raze the existing buildings in order to build a new office building. It appears that is what the protestants would like to see happen, but the owner still has rights under the non-conforming use. The subject property is still a non-conforming commercial use even with the rezoning to OL.

Mr. White asked the staff if the OL zoning with a non-conforming status effect the signage requirements? Mr. Gardner stated that if the Board does not address the signage as a part of the action, then he would be entitled to one sign 32 SF and no more than 20' in height or the height of the building, which ever is less.

Mr. Gardner stated the applicant has a commercial use in an office district and he doesn't necessarily lose his right to come back and ask for a new special exception.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **DENY** the Appeal and **UPHOLD** the decision of Code Enforcement Officer's determination that the off-street parking must be an all-weather surface, that the initiation of the use as a facility for teaching martial arts constituted a change of use requiring a zoning clearance permit and that the use as a facility for teaching martial arts is not permitted in the RS-3 district. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL.**

AND

Case No. 17635 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to permit a change of non-conforming use to a martial arts school. **SECTION 1402.F. NON-CONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION**; subject to the signage of the studio meeting the underlying OL zoning requirements; subject to the parking provided for the studio meet the same parking as required for gymnasiums and health clubs; subject to the use being limited to the martial arts studio and subject to there being no expansion to the existing building; finding that there are other Use Unit 19 uses that would not be compatible in the subject area; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code.

AND

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **DENY** a **Variance** of the required all-weather surface. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request; on the following described property:

Beginning 1686' E, 90' S, NW/c, Sec. 27, T-19-N, R-13-E, Tulsa County, Oklahoma; thence S for 249.91'; thence E for 470'; thence N for 249.53'; thence W for 470' to POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17657

Action Requested:

Variance of the one year time limit for a manufactured home to permanent in an RS-3 district. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 3100 North Harvard.

Presentation:

The applicant, **Det. James D. Bell (Ret.)**, P.O. Box 6305, was present.

Case No. 17657 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of the one year time limit for a manufactured home to permanent in an RS-3 district. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Lots 10, 11 & 12, Block 5, Mohawk Harvard Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17659

Action Requested:

Variance of the one year time limit for a manufactured home to permanent in an RM-1 district. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 5909 East Ute Place.

Presentation:

The applicant, **Linda A. Bailey**, 5909 East Ute Place, was present.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of the one year time limit for a manufactured home to permanent in an RM-1 district. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9; finding that there are other manufactured homes in the area and that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Lots 10-18, Block 3, Dawson Amended (original townsite), City of Tulsa, Tulsa County, Oklahoma.

Case No. 17664

Action Requested:

Variance of side yard from 10' to 1' to allow construction of a new garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2137 East 24th Street.

Presentation:

The applicant, **Tony Harris**, requested a continuance to May 13, 1997, to re-work his site plan.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, Bolzle "absent") to **CONTINUE** Case No. 17664 to May 13, 1997, at 1:00 p.m.

Case No. 17673

Action Requested:

Special Exception to permit church use (accessory parking). **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** and **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 2331 East 5th Place.

Presentation:

The applicant, **Raymond Kahl**, 9 East 4th Street, Suite 500, representing Grace Lutheran Church, stated the church has purchased Lots 1 and 2 of Block 4, in the Hillcrest Addition from the City of Tulsa, which was condemned through the Lewis Avenue improvement district. Mr. Kahl explained that the purpose of the two lots was to combine the two lots with Lot 3 and the east 25' of Lot 4 into a new landscaped parking lot. Mr. Kahl stated that the parking lot is for off-street parking for the church to bring the church above the required 90 spaces under its current use. The intent will be that the lot will also provide the additional parking that will be required when the church is expanded. Mr. Kahl stated the church will be coming before the Board with an expansion plan in the near future.

Comments and Questions:

Mr. White asked the applicant if the expansion will take place on the lot where the church is currently located? He answered affirmatively.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Tumbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to permit church use (accessory parking). **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** and **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to the required screening fence being installed along the south and west sides of the abutting residential zoning; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lots 1-3, E 25' Lot 4, Block 4, Hillcrest Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17680

Action Requested:

Special Exception to permit auto sales on the W 120' of subject tract. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**, and a Variance of the required setback of 300' from an R district to permit open air storage & display of merchandise offered for sale. **SECTION 1217. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES**; Use Conditions, located SE/c 46th Street North & Peoria.

Presentation:

The applicant, **John Basolo**, 4561 North Peoria, stated he has owned the subject property for approximately three (3) years. Mr. Basolo submitted photographs (Exhibit C-2). He indicated he would like to sell used cars on the subject property. He stated the only licensed used car dealer by the State and zoned properly in the area is the North Peoria Car Lot. Mr. Basolo informed the Board that he is trying to go by the guidelines and conform to the City's ordinances.

Protestants:

Dwain Midget, Mayor's Office, stated that several years ago the North Peoria Corridor Study ("Study") was approved. Mr. Midget proposed that the request be denied based upon the land use guidelines outlined in the Study. The Study points out that the area is already saturated with automotive and related uses, many of which are marginal. The Study also notes that the proliferation of these uses has contributed to the deterioration of the adjacent residential property. There are some automotive properties that are well maintained, but the submitted photographs (Exhibit C-1) are the exception. Mr. Midget stated that the Study concluded that no further automotive uses should be approved in this area and the Study recommended that provisions

through the zoning code require spacing of the automotive uses. He further stated that the Study noted that unsightly outdoor storage is a problem and in many cases has a negative impact on the area. Mr. Midget reminded the Board that recently an application was approved (with conditions) for a used automobile sales, however it was a relocation of an existing automotive sales and not a new business. Mr. Midget questioned the quality of cars for sale by the applicant. He expressed concern regarding the signage located in the easement and the number of signs on the lot. Mr. Midget indicated that there are a number of code violations already existing on the subject property. Mr. Midget listed the following code violations: Title 42, Sec. 1221.C.7.: the issuance of sign permits, Title 42, Sec. 1221.C.6.: sign setback requirements, Title 42, Sec. 1221.C.9.a.: the maximum number of promotional business signs in a CS district, and Title 42, Sec. 1214.E.1,2.: accessory vehicles to be parked on the lot, and accessory vehicles or trailers in excess of 1-1/2 ton capacity or accessory vehicles or trailers with signs that exceeds 32 SF that direct attention to a business, shall not be parked closer to the street than the nearest building wall unless granted a special exception from the Board of Adjustment. Mr. Midget requested the Board to consider the following conditions if they are inclined to approve this application: Limit vehicles on display to five (5) vehicles at any one time; that the special exception be restricted to automotive sales only and all other uses permitted under a Use Unit 17 is prohibited; that no vehicular access to the property be allowed along Peoria; that permits be issued before the installation of any sign; and that all signs comply with provisions set forth in Title 42, Sec. 1221, Use Unit 21 and other related provisions; that no outdoor storage other than vehicles for sale be allowed on the property; that any screening on the property be designed to help enhance the visual character of the overall area; that the screening should also serve to buffer certain adverse effects associated with commercial property along the North Peoria Corridor and nearby residential areas; that adequate landscaping be provided as part of this project and that representatives and Homeowners groups in Planning District 25 be notified of any application to expand the use of this property or change the zoning. Mr. Midget concluded by requesting the Board to deny the application.

Jane Malone, representing Chamberlain Area Neighbors, 4735 North Detroit, stated that she wants to be assured that the lot will be attractive and pleasing to the eye. The neighbors do not want to see a lot of junk vehicles, which ultimately become a salvage yard. Ms. Malone informed the Board that she viewed the subject property before coming to the hearing today and at the present time the subject property is unsightly. She stated the subject corner is highly visible and it needs to be an attractive corner. Ms. Malone requested the application be denied.

Applicant's Rebuttal:

Mr. Basolo stated he would like to work with the Mayor's office and any of their recommendations. Mr. Basolo commented that he does not see any problems with his lot. He stated that the lot has been vacant for five (5) years and since he has purchased the property he has painted and cleaned the area. Mr. Basolo indicated that he will work with any conditions or regulations the Board would like to impose. He stated he is not in the salvage business and has no intentions of going into the salvage business. Mr. Basolo indicated that there is a need for a used car lot in the subject area. He agreed with the Mayor's office with regard to the other automotive repair stores and used car lots up and down the Peoria Corridor that are unsightly. He proposed a plan to expand the subject property to be a shopping type center. Mr. Basolo commented that the proposed use is the best use for the land and he is willing to conform to any conditions the Board would like to impose.

Comments and Questions:

Ms. Turnbo stated she agrees with the North Peoria Corridor Study and the application should be denied.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **DENY** a **Special Exception** to permit auto sales on the W 120' of subject tract. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS**, and a **Variance** of the required setback of 300' from an R district to permit open air storage & display of merchandise offered for sale. **SECTION 1217. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES;** Use Conditions; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

W 120' of S 200', N 250', E 190', W 240', W 14.86 acres, Lot 1, Sec. 18, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17119a

Action Requested:

Approval of an amended site plan for a previously approved public park. **SECTIONS 401 & 701. PRINCIPAL USES PERMITTED IN RESIDENTIAL AND COMMERCIAL DISTRICTS** - Use Unit 2, located NE of Marshall Street and Knoxville Avenue (Grotto Park).

Presentation:

The applicant, **Ross Weller/City of Tulsa**, represented by Randy Nicholson, 1710 West Charles Page Boulevard, submitted a site plan (Exhibit D-1) and stated in August of 1995, the City had an application for Grotto Park approved per plot plan. Mr. Nicholson explained that since the approval of the plot plan, the City has received some funding for development and the physical facts of the site has not allowed the Park Department to proceed ahead exactly with the plot plan submitted in August 1995. The previously plot plan showed a playground development north of the creek on Grotto Park, which is a 10 acre park site. He indicated that the Park Department will have to move the playground north of the creek and construct a new pedestrian bridge, which is also funded with this particular project. The parking lot will remain in the same location and the parking access to the playground will be across the creek with a new bridge constructed. This will place the playground south of the creek instead of north of the creek as the previous plot plan. He commented that this a minor amendment and he is resubmitting the site plan with the changes.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** an amended site plan for a previously approved public park. **SECTIONS 401 & 701. PRINCIPAL USES PERMITTED IN RESIDENTIAL AND COMMERCIAL DISTRICTS** - Use Unit 2, per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Starting at the NW/c of the SE/4, NW/4, Section 33, T-20-N, R-13-E, IBM, thence south 210' to the POB; thence south for 450'; thence easterly for 495'; thence north for 450'; thence westerly for 495' to the POB and the E/2, NE/4, SW/4, NW/4, Section 33, T-20-N, R-13-E, IBM, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16408a

Action Requested:

Minor Special Exception to approve an amended site plan for an existing church to add a canopy to the existing building. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 5, located 16933 East 21st Street.

Presentation:

The applicant, **Ronald Scott/TAM-BAO Buddhist Temple**, represented by Ky Nguyen, 542 South Maplewood, and submitted a site plan (Exhibit T-1). Mr. Nguyen stated he would like an approval of this application in order to add a roof over the walkways around the subject building. He explained that the roof over the walkways will allow members of the temple to stay out of the weather while entering and exiting the subject building.

Comments and Questions:

Mr. White asked the applicant if the request is for the building on the west? Mr. Nguyen stated the building is in the northwest corner of the lot and they need a roof over the walkways.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Minor Special Exception** to approve an amended site plan for an existing church to add a canopy to the existing building. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 5, per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

TAM-BAO Buddhist Temple, Lot 1, Block 1, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17684

Action Requested:

Variance to replace two existing (non-conforming) outdoor advertising signs (one with 672 SF and one with approximately 500 SF), which are of a 2 pole design with a monopole design containing 672 SF each and 60' high. **SECTION 1403.A. NONCONFORMING SIGNS** - Use Unit 21, located NW/c 21st Street South & Highway 169.

Presentation:

The applicant, **Michael T. Myers**, 7060 South Yale, Suite 605, submitted a site plan (Exhibit E-1) and photographs (Exhibit E-2). Mr. Myers proposes to replace the older signs with a newer and more modern type of sign. He stated the existing sign that has four faces is the 500 SF sign and because the area is slightly depressed from the expressway he requested the sign extend to the 60' height limit. Mr. Myers requested that the old sign which is 500 SF be allowed to increase to 672 SF. He commented that there are other signs in the area, primarily to the north and west along Skelly Drive, that are not visible from the subject property or driving by the subject property.

Protestants:

Janet Miller, representing the East Tulsa Mingo Valley Association, 1249 South 105th East Avenue, stated that based on the applicants statements, she agrees that the signs do need to be replaced. She commented that the new signs should be in line with the other signs along the expressway, with regard to height. She expressed the opinion that the square footage of the new signs should stay within the ordinances.

Comments and Questions:

Mr. White asked staff if the request is to increase the display surfaces area of 172 SF? Mr. Beach stated the applicant has two signs and he has requested to increase the display surface area on one of the signs to 172 SF. He explained that the applicant has two signs and one measures 500 SF and the other is 672 SF. Mr. Miller is wanting to make both signs 672 SF of surface display area.

Ms. Miller stated the neighborhood has no objection to the request as long as the request is within the limits of what is normally recommended and they should not exceed the limits. She requested that the new signs look similar to the other signs in the subject area.

Mr. White asked staff if there is an increase in the height requested on this application? Mr. Beach stated that according to the application there is no request for a height increase. (If the expressway is elevated 10' or more the signs are allowed to extend to 60'.)

Mr. Gardner stated that the existing signs are non-conforming because they are too close together. He indicated the signs meet the State requirements of 500', but they do not meet the City's 1200' spacing ordinance. Mr. Gardner commented that the applicant is spaced as uniform as possible between the two other existing signs in the subject area.

Applicant's Rebuttal:

Mr. Myers stated he did not want rebuttal.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** to replace two existing (non-conforming) outdoor advertising signs (one with 672 SF and one with approximately 500 SF), which are of a 2 pole design with a monopole design containing 672 SF each and 60' high*. **SECTION 1403.A. NONCONFORMING SIGNS** - Use Unit 21; per plan submitted; finding that the two (2) existing non-conforming signs will be replaced with newer signs, which will not be an additional detriment to the neighborhood and will clean up two (2) older signs; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

All that part of Lot 1, Block 1, Magic Circle South Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, more particularly described as follows, to-wit: Beg. SE/c, said Lot 1; thence due W along S boundary for 150.00'; to a point 767.00' from the SW/c thereof; thence N26°33'54"E for 22.36'; thence due N for 200.00'; thence N45°00'00"E for 169.64'; thence due N for 931.17' to a point in the S boundary of the dedicated ROW for I-44; thence S89°59'19"E along said ROW for 188.52'; thence S25°16'20"E along the W boundary of dedicated ROW for Mingo Valley Expwy for 247.61'; thence S1°35'20"E along said ROW for 424.41'; thence S14°34'20"W along said ROW for 443.22'; thence S1°38'40"W along said ROW for 43.98'; thence due W along the common boundary of Lot 1 and Lot 2, Block 1 of said addition, for 175.69'; thence due S along said Lot 1 and Lot 2 for 150.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

*Building Inspector is required to determine if the expressway is elevated 10' or more in order to permit 60' high signs.

Case No. 17685

Action Requested:

Variance of the required side setback from 10' to 4' to extend a non-conforming garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2465 East 23rd Street South.

Case No. 17685 (continued)

Presentation:

The applicant, **Forrest W. Carpenter**, submitted a site plan (Exhibit F-1) and floor plan (Exhibit F-2). Mr. Carpenter stated he is remodeling the house and he would like to extend the garage back 9'. He indicated that he will not be any closer to the property line.

Comments and Questions:

Ms. Turnbo asked the applicant if he is lining up with the existing structure? He stated the garage will be aligned with the existing structure and he will not be any closer to the property line than what is already existing.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolze, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of the required side setback from 10' to 4' to extend a non-conforming garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the garage will be aligned with the existing structure and will not be any closer to the property lines than what is already existing; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Lot 23, Block 2, Wells Heath Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17686

Action Requested:

Variance to allow a detached accessory building of 1,125 SF. **SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS** and a Variance to allow an accessory building to cover more than 20% of the required rear yard. **SECTION 210.B. YARDS** - Use Unit 6, located 8716 East 13th Street South.

Presentation:

The applicant, **Paul A. Moore**, 4925 East 4th Place, submitted a site plan (Exhibit G-2) and photographs (Exhibit G-1). Mr. Moore stated he is building a house with a detached garage, which is considered an accessory building. He requested a variance from the maximum size allowed for an accessory building because he is an avid woodworker. Mr. Moore stated he would like to have space in his detached garage to have a workshop for woodworking and enough space to park two (2)

vehicles. He indicated the garage will be 45' x 25', which is double the size of a two (2) car garage. The lot is a 1/2 acre and Mr. Moore did not feel that the detached garage will crowd the lot in anyway. He stated he did not feel the detached garage will stand out in the neighborhood because many of the neighbors have large accessory buildings, which are equal to or larger than what he has proposed (see photographs). Mr. Moore informed the Board that the detached garage will match the house and will have a pitched roof. He stated he bought the 1/2 acre of land because he did not think there would be a problem with an oversized garage. He informed the Board that the proposal will utilize 22% of the rear yard and he is allowed to use up to 20% of the rear yard. Mr. Moore stated he could move the detached garage forward away from the property line to satisfy the requirement, but the space behind the building would be wasted and would be better utilized in front of the building.

Comments and Questions:

Mr. White asked the applicant if his woodworking projects are for commercial purposes? He stated he is in the home remodeling business and most of the remodeling is done on site in people's homes, but sometimes he does cut the trim at home before going to the remodeling site. He explained that it is not feasible to rent a commercial building to cut trim occasionally.

Mr. White asked the applicant if he had any employees? He stated he did not have any employees and he does not have any signs in the yard. Mr. Moore informed the Board that he does not have customers coming or going from his property and he owns one vehicle. He stated he is presently working out of his home and the home looks like any house on the block, if not better because it is maintained better than most. He commented that his home does not have the appearance of a business.

Ms. Turnbo asked the applicant how much of his commercial business, percentage wise, is done at the home? He stated 30% of his commercial business is done at home.

Mr. White asked the applicant if he had items for sale at the home location? He answered negatively. He stated he makes cabinets, cut trim, etc. for remodeling jobs, which he would do at the home and then take to the job site to install. He commented that the furniture he makes is for his own home or family members and are not for sale to the public.

Protestants:

Jerri Beard, 8889 East 13th Street South, stated she lives across the street from the subject property. Ms. Beard explained that she does have a butler building that is full of antique cars and it has been there for 37 years. She stated that there is no commercial business in her accessory building. Ms. Beard expressed concerns that the applicant will be working late into the night building cabinets. She stated she is against a business being in the residential area.

Jack Waterfield, 8820 East 16th Street, Co-founder of the Mingo Valley Homeowner's association, stated he objects to the application because of the excessive size. Mr. Waterfield commented the applicant should stay within the ordinance. He suggested that several of the accessory buildings in the area are in place illegally and there have been too many variances approved.

Interested Parties:

Al Nichols, 8525 East 16th Street, Board Member of the Mingo Valley Homeowner's Association, stated that the neighborhood discussed the proposal and it appeared to the neighborhood that the applicant was not going to live on the subject property, but rather build an oversized building for a commercial business. After finding out the real truth and seeing the plans, this will be an asset to the neighborhood instead of a liability. Mr. Nichols stated that if the applicant had proposed an attached garage versus a detached garage, no one in the neighborhood would have objected. He commented the livability overage is very minimal and the size of the detached garage is not excessive. Mr. Nichols informed the Board that he is speaking for himself and he is not speaking for the entire homeowner's association. Mr. Nichols stated the application should be approved as planned.

Applicant's Rebuttal:

Mr. Moore assured the Board that he will not work at 3:00 a.m. in his detached garage. He stated he tries to be considerate of his neighbors and treat the neighbors as he would like them to treat him. Mr. Moore indicated he does not work past 9:00 p.m. and he tries to prevent debris from collecting around the grounds.

Comments and Questions:

Mr. Dunham asked the applicant if he would have a problem with limiting the hours for the shop? Mr. Moore stated he would not have a problem with limiting the hours of the shop.

Case No. 17686 (continued)

Mr. Bolzle asked the staff if there are really two (2) issues here? Mr. Bolzle stated that one is a home occupation, which he has not asked for approval and the other is a variance for an accessory building. Mr. Bolzle asked the staff if the Board approved the variance, would the applicant be allowed to have the home occupation by right? Mr. Beach stated technically it is a home occupation, but he is not sure how the Board will distinguish between hobby woodworking and commercial woodworking.

Mr. Gardner stated that if the Board considered the accessory building to be a cabinet shop then the Board would not have any jurisdiction. Mr. Gardner further stated he did not think the applicant has a cabinet shop. He explained that a cabinet shop would be where you work in the shop eight (8) hours and make your living making cabinets. Obviously the applicant does interior remodeling, which includes cabinets and other things from time to time.

Mr. Bolzle asked the staff if the Board had the ability, within this application, to set hours of use? Mr. Gardner stated that the Board could even require the applicant to file a document with the clerk's office that the building cannot be used for a business. This will prevent anyone from buying the subject property and using the accessory building for a commercial business.

Mr. Gardner stated that if the applicant uses the detached garage as a home business, then he must get approval and the Board's power is limited to certain types of uses it will be able to grant. The issue would become a Code Enforcement problem if the applicant uses his building without the benefit of appropriate zoning.

Mr. White asked the applicant if he understands the previous discussion regarding home occupation? He answered affirmatively.

Mr. Bolzle asked the applicant if he is willing to limit the hours he uses the accessory building? He stated he did not have a problem with limiting the hours to 10:00 p.m.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** to allow a detached accessory building of 1,125 SF. **SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS** and a **Variance** to allow an accessory building to cover more than 20% of the required rear yard. **SECTION 210.B. YARDS** - Use Unit 6; per plan submitted; subject to there being no commercial activities being conducted in the detached accessory building and subject to any woodworking done in the detached accessory building not to be conducted any later than 10:00 p.m.; finding that the size of the lot is substantially larger than required in an RS-1 district; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Case No. 17686 (continued)

E 158' of N/2, Lot 2, Block 6, Forest Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17687

Action Requested:

Variance of setback from Charles Page Boulevard to allow 2 mobile offices. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**, located 3311 Charles Page Boulevard.

Presentation:

The applicant, **C. Wade McPhearson**, requested a continuance to May 13, 1997, in a timely manner.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, Bolzle "absent") to **CONTINUE** Case No. 17687 to May 13, 1997, at 1:00 p.m.

Case No. 17688

Action Requested:

Special Exception to permit central power plant as an accessory to Hillcrest Hospital. **SECTION 601 & 701. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS & IN COMMERCIAL DISTRICTS** - Use Unit 2, located SE/c 11th & Trenton.

Presentation:

The applicant, **Gary Sparks**, represented by Charles Norman, 2900 Mid-Continent Tower, submitted a site plan (Exhibit H-1) and a landscaping plan (Exhibit H-2). Mr. Norman stated that the application was filed by the architects who were denied a building permit to relocate the existing power plant for Hillcrest Medical Center. The property in which the power plant is presently located and upon which it would be relocated is within the CH zoning on the southside of East 11th Street. The power plant would be considered an accessory use to the hospital and it was thought that the relocation of an accessory use would not require Board of Adjustment approval. However, the ordinance was amended two (2) years ago to require any hospital defined as a Use Unit 2 to be approved by the Board of Adjustment. The hospital has acquired the Rainbow Bakery Plant and when the power plant is relocated the old power plant will be removed along with the buildings and there will be further applications submitted to the Board of Adjustment for future development of the hospital campus. Mr. Norman requested permission for the relocation of an existing power plant in the CH district.

Case No. 17688 (continued)

Comments and Questions:

Mr. Dunham asked Mr. Norman if he knew the elevations for the subject building? Mr. Norman stated he had not been provided the elevations. He explained that the subject building is basically a masonry structure that will conform to all of the requirements of the building code.

Ms. Turnbo asked the applicant how many employees will be working in the building? Mr. Norman stated he did not know, but probably less than ten (10) employees.

Ms. Turnbo asked the applicant if there will be adequate parking for the employees? He stated that this is the first new construction within the Hillcrest original block since the amendment of the zoning code to require parking in a CH district. The block standing alone is non-conforming as to parking, however, in a hospital use, the accessory use is not counted as a part of the calculation of the required parking. The parking of the hospital is based upon the number of beds and other uses (cafeteria, etc.). He commented that this use will not generate any additional parking requirement.

Ms. Turnbo asked the applicant if the subject building will meet the landscaping requirements? He answered affirmatively.

Mr. Norman informed the Board that the power plant being moved is one of the housekeeping issues that is very expensive and necessary to permit any further development of the main campus block.

In response to Mr. Dunham, Mr. Norman stated that all of the screening and landscaping will be complied with as a part of the CH zoning district. He further stated that what is submitted more than satisfies the requirement for the street frontage landscaping.

Mr. Beach stated that the applicant has already applied for a building permit and any other issues would have been pointed out at that time.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to permit central power plant as an accessory use to Hillcrest Hospital. **SECTION 601 & 701. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS & IN COMMERCIAL DISTRICTS** - Use Unit 2, per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Case No. 17688 (continued)

Lot 7, Less the N 5.5' thereof, Block 1; and Lots 8-12, Block 1, Re-amended Forest Park Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, AND ALSO the 10' wide vacated alleyway lying Ely of and adjacent to; and the Ely 10' of vacated S Trenton Ave. lying Wly of and adjacent to the above described property, AND ALSO, the W 13.0', Lot 1, less the N 6.5' thereof, Block 2; N 15.5' of the W 13.0' of Lot 2, Block 2, Hopping Heights an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17689

Action Requested:

Variance to allow increasing 35' height limitation on an existing apartment project.

SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 8, located 4733-4761 South Harvard.

Presentation:

The applicant, **George C. Twilley**, P.O. Box 35651, submitted a site plan (Exhibit I-1) and a final plat (Exhibit I-2). Mr. Twilley stated that the reason he is asking for the variance is because the subject property is in a floodplain and after extensive meetings with public works it has been determined that the only practical way to redevelop the subject property is to elevate the property out of the floodplain. He explained that the way he plans to elevate the property out of the floodplain is to convert the first floor into individual garages for the tenants and in order to maintain the same number of units that the property has currently, which is required to maintain the economic integrity of the investment, there will be a third story added to duplicate what is being moved out of the first floor. In order to do so, he will need to override the existing height allowance in an RM-2 zoning. He stated the drawings indicate a 45', but actually there are two alternative approaches to the exterior facade and he would like to keep the other option of the higher pitched roof opened.

Comments and Questions:

Mr. Bolzle asked the applicant if the second option includes living area within the roofed area? He answered negatively.

Mr. Bolzle asked the applicant if he is adding one livable floor and everything above is simply crawl space? He answered affirmatively.

Mr. Bolzle asked the applicant if he is requesting that the application not be approved per plan? He stated he would like the flexibility to use either plan.

Case No. 17689 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** to allow increasing 35' height limitation on an existing apartment project. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 8; per either plan (elevation) submitted; finding that the subject property is in a flood zone and this will improve an existing condition; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Lot 4, re-plat of Lot 4, Patrick Henry Village, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17690

Action Requested:

Special Exception to permit a retail use in an IL district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 14, located 4336 South 91st East Avenue.

Presentation:

The applicant, **Chris Shea/ Maty Factory Outlets**, 2239 Vantage Street, Dallas, Texas, submitted a site plan (Exhibit J-1) and stated his company currently operates The Clearing House. The store has been in existence for eight (8) years, but it was never zoned for commercial. He requested the special exception be approved so that in the future he can apply for tent permits, etc. Mr. Shea stated his company has a leasing contract for the facility.

Comments and Questions:

Ms. Turnbo asked the applicant if he knew how many parking spaces he will need? He stated that there are approximately 30 parking spaces, however there is rarely five (5) or six (6) cars parked in front of the subject building.

Mr. Beach asked the applicant if the subject building is a retail store? He stated it is a retail store and has always been a retail store.

Mr. Beach stated the parking requirement is 1 space for every 225 SF of retail floor area.

Case No. 17690 (continued)

Ms. Turnbo asked the applicant if he knew how much floor space was in the subject building? He stated that he occupies the front of a warehouse area and there is approximately 1200 SF. He explained that the rest of the building is a warehouse building.

Mr. Gardner stated that the applicant will have to specify what area he is occupying as retail in order to figure the parking space requirements.

In response to Mr. Dunham, Mr. Shea stated he is only occupying the front of the Children's Outlet Store.

Mr. Beach stated the applicant will need six (6) parking spaces for the 1200 SF he is occupying.

In response to Mr. Beach, Mr. Shea stated that there is more than six (6) parking spaces available.

Protestants: None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to permit a retail use in an IL district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 14; per plan submitted; subject to the special exception applying only to the 1200 SF in building #1 on the submitted plan; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 1, Block 1, Alexander Trust Addition Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17692

Action Requested:

Variance to allow required parking on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING; GENERAL REQUIREMENTS** - Use Unit 12a, located NE/c South Zonis and East 6th Street.

Presentation:

The applicant, **Kenneth D. Teague**, withdrew his application via telephone.

Case No. 17693

Action Requested:

Special Exception to allow an electrical contracting service in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15; a Variance of required number of parking spaces from 6 to 3. **SECTION 1215.D. USE UNIT 15, OTHER TRADES AND SERVICES;** a Variance from the centerline of South Lewis Avenue from 100' to 63.1'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** and a Variance of the required structure setback from abutting streets to permit required parking in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS,** located 819 South Lewis Avenue.

Presentation:

The applicant, **D.W. Gilley**, 819 South Lewis, Owner of Gilley Electric, submitted a site plan (Exhibit K-1) and stated he would like to improve the subject property, which has been a car lot for the past 25 years.

Comments and Questions:

Mr. Gardner advised the applicant to inform the Board where the new structure will be in relationship to the existing buildings. He stated the existing buildings are closer to the street than the present law will permit.

Mr. Gilley stated that the proposed structure will go immediately to the northside and will not come out any further than the existing building. He informed the Board that the buildings on both sides of the subject property are closer to the street than he will be.

Mr. Dunham asked the applicant if there will be any outside storage? He answered negatively.

Mr. White asked the applicant how many employees will be working at the subject property? He stated the hours of operation are from 8:00 a.m. to 5:00 p.m. and during the day there are three (3) people inside. He explained that he does employ ten (10) electricians, but they are out on the job site.

Mr. White asked the applicant if the employees report in and out of the subject property? Mr. Gilley stated that the electricians report in at 8:00 a.m. and report out at 4:30 p.m., at which time they leave.

Mr. Gardner asked Mr. Gilley if both lots were used as one lot and the Board approved his application per tie contract would he meet the parking? He answered affirmatively.

Mr. White asked Mr. Gilley what the use will be for the existing building when the new building is built? He stated it would be strictly office use.

Case No. 17693 (continued)

Ms. Turnbo stated that this is a type of business where customers do not typically come to the office, business is usually conducted over the phone.

Interested Parties:

Maria Barnes, 2252 East 7th Street, stated she is not protesting and hopes that the Board will approve this application. She explained that she has lived in her home for over eleven (11) years and there has never been any problems with semi-trucks or traffic. She stated that Gilley Electric has been an asset to Lewis Avenue.

Comments and Questions:

Mr. Bolzle asked the staff if in the future Mr. Gilley vacated or sells the subject building and reverts to a retail use, will that use be required to meet parking? Mr. Gardner stated you cannot create a non-conformity with regard to parking. He commented that the owner will be limited to a use that meets the current parking.

In response to Mr. Bolzle, Mr. Gardner stated the applicant will need the Variance of the required structure setback from abutting streets to permit required parking in the planned right-of-way. He explained that the uniqueness for the subject property is that this is the way the area was developed when it was laid out. The City imposed a greater setback restriction and parking restriction on the subject area from the original zoning.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to allow an electrical contracting service in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15; a **Variance** of required number of parking spaces from 6 to 3. **SECTION 1215.D. USE UNIT 15, OTHER TRADES AND SERVICES**; a **Variance** of the building setback from the centerline of South Lewis Avenue from 100' to 63.1'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** and a **Variance** of the required structure setback from abutting streets to permit required parking in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**; per plan submitted; subject to a tie agreement that will tie the subject property together and will therefore meet the required parking of six (6) spaces; finding that the subject area is an older business district and the City imposed a greater structure setback and parking setback than the original zoning; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Case No. 17693 (continued)

Highland Addition, Block 3, Lot 12, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17694

Action Requested:

Special Exception for church uses in a CH district. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**, located 4728 Charles Page Boulevard.

Presentation:

The applicant, **Virgil Mitchell**, 13423 North Cincinnati, Skiatook, representing the Family of Praise Center, submitted a site plan (Exhibit L-1) and an application for a plat waiver (Exhibit L-2). Mr. Mitchell requested the special exception so that the church will be in compliance. He explained that the church has been in existence for over three (3) years. Mr. Mitchell stated the church recently acquired a building on the subject property and would like to remodel the building for church use.

Protestants: None.

Comments and Questions:

Mr. Bolzle asked the staff if the applicant will be required to return with a site plan? Mr. Beach stated that if the church applies for a building permit a site plan will be required.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** for church uses in a CH district. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lots 1-6, Lots 7-9, Block 1, Rayburn Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17695

Action Requested:

Variance of minimum lot width requirement of 60' to 50' for a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 1427 East 36th Street.

Presentation:

The applicant, **George Thompson**, represented by Steve Schuller, 320 South Boston, submitted a site plan (Exhibit M-1) and stated that the subject property is located in the Olivers Addition, which was platted as 100' wide lots. He explained that a majority of the lots have been subdivided and split over the years into 50' wide lots. The subject lot was split by the developer and was separately owned for years. Several years ago the lots came into common ownership. He explained that the house and garage is on the west half of the lot and the east half is vacant. Mr. Schuller indicated that the extraordinary circumstances peculiar to this property is that it was separately owned for many years and only in the last few years did the subject property come into common ownership. He stated the literal enforcement of the Code then results in an unnecessary hardship because it prevents the reasonable use of the subject property consistent with all of the other properties in the larger surrounding neighborhood. He requested that the property be permitted to be split into two 50' wide lots consistent with almost all of the other lots in the Olivers Addition and some of the surrounding subdivisions in the immediate area.

Comments and Questions:

Mr. White asked Mr. Schuller what the side yard will be on the east side of the existing house once the subject lot is split? He stated there will not be any encroachment because the house and garage are wholly on the west 50' of the lot.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of minimum lot width requirement of 60' to 50' for a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the surrounding lots in the neighborhood are the 50' width; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Lot 4, Block 5, Olivers Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17697

Action Requested:

Special Exception to permit a CPA/legal firm as a home occupation in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11, located 4803 South Owasso.

Presentation:

The applicant, **Bruce Spence**, represented by Carl Webb, 4809 South Owasso, stated he is the owner of the subject property and his son-in-law Bruce Spence presently has a legal practice, on a temporary basis, at the subject property. He explained that he employs his wife and daughter for his CPA firm, which is also located on the subject property.

Comments and Questions:

Mr. Bolzle asked Mr. Webb if he lived in the subject house? He answered negatively.

Mr. Bolzle asked Mr. Webb if Mr. Spence lived in the house? He answered negatively.

Mr. White asked the applicant if anyone is planning on living in the house? He stated his daughter will live in the home starting in the fall.

Mr. White asked the applicant if the daughter planning to live in the house is an employee? He answered affirmatively.

Mr. Bolzle informed Mr. Webb that the Home Occupation Guidelines state that only people living in the residence can conduct the home business activity. Mr. Bolzle stated that the daughter could operate a business in the subject home once she moves in, but the father or son-in-law could not work there.

Mr. Beach stated that the applicant is not properly before the Board.

Mr. White asked Mr. Webb if he has seen the guidelines for a home occupation? He answered affirmatively.

Mr. Beach informed the applicant that he is requesting the Board to approve a use that the Board does not have jurisdiction to approve in an RS-3 district. He explained that someone would have to live in the house and they would have to conduct the business without having any employees who do not live in the home as well.

After a lengthy discussion it was determined that Mr. Webb will need to have the subject property rezoned. Mr. Webb stated he will withdraw his application and resubmit an application with TMAPC for rezoning.

Case No. 17698

Action Requested:

Special Exception to allow a mobile home in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 9, a Special Exception to waive the screening requirements on east side of property and east of lagoon area. **SECTION 1223. USE UNIT 23. WAREHOUSING AND WHOLESALING**, and a Review of an amendment to a previously approved site plan. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 23, located 1211 North Mingo Road.

Presentation:

The applicant, **Tom Harris**, 13404 East 94th Street North, submitted a site plan (Exhibit N-1) and photographs (Exhibit N-2). Mr. Harris stated he would like to omit the screening fence on the subject property and to use an existing mobile home. He explained that originally the site plan indicated a lagoon for the sewer, but it was required that he hook up to the City sewer system. Mr. Harris stated that since he is no longer allowed to have a lagoon, the back of his lot is now opened for development. On the original site plan there is a screening fence indicated between the boat stalls and the proposed lagoon and he would like to omit the fence now that he will not have the lagoon. Mr. Harris admitted that he does not know what he will develop on the available land. He explained that there is a large ravine behind the subject property and there will not be any development behind his property. He requested a variance for the screening fence since there, in all probability, will not be any development behind the subject property. Mr. Harris stated he would like to utilize the existing mobile home on the subject property for rental property. He explained that by renting the mobile home it will provide additional income and added security for the boat storage. Mr. Harris commented the existing mobile home will not be detrimental to the area. He stated that there will be three (3) additional trees planted to block the view of the trailer from Mingo Road. He informed the Board that there are mobile homes south of the subject property and a mobile home park south of the subject property. He stated the mobile home and boat storage will enhance the area.

Comments and Questions:

Mr. Beach stated the previously site plan was approved by the Board in January 1997.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to allow a mobile home in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 9, a **Special Exception** to waive the screening requirements on east side of property and east of lagoon area. **SECTION 1223. USE UNIT 23. WAREHOUSING AND WHOLESALING**, and a Review of an amendment to a previously approved site plan. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 23; per

Case No. 17698 (continued)

amended plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lots 5 & 6, Edmund's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17699

Action Requested:

Special Exception to allow a bar in an IM district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12a, located 520 East 3rd Street.

Presentation:

The applicant, **Steven Rogers/Andre M. Bahlinger**, 3409 South Quincy, submitted a site plan (Exhibit O-1) and stated he is asking for a special exception to allow a bar in an IM district with a future use of Nelson's Buffeteria.

Comments and Questions:

Mr. Dunham asked the applicant if at this point he is asking for the use of the bar? He answered affirmatively.

In response to Ms. Turnbo, Mr. Rogers stated that there is 3,000 SF and he will be using the existing building.

Ms. Turnbo asked the applicant if he will have adequate parking for the subject property? He answered affirmatively.

In response to Mr. White, Mr. Rogers stated the building is a two (2) story building, which was the old Midland Valley Train Depot.

Mr. Gardner stated that if the subject property was across the street, the use would be permitted by right in the CBD and also there is no parking requirements in the CBD. However, the subject property is in the IM district, which requires an exception for the use. Mr. Gardner stated the bar will probably generate a lot of traffic and will need adequate parking.

Mr. Beach informed the applicant that he will need to come before the Board in the near future when Nelson's Buffeteria moves into the subject building.

Case No. 17699 (continued)

Ms. Turnbo stated the subject property provides 57 parking spaces and it is only required to have 40 parking spaces.

Mr. Rogers agreed with Ms. Turnbo's statement.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Special Exception** to allow a bar in an IM district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12a; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lots 1-3, part of Lot 4 and vacated Greenwood Ave., beg. NW/c of Lot 1, Block 114, thence NE 211.06', SW 332.65', SW 120.18', NW 320' to POB, Tulsa original townsite, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17700

Action Requested:

Variance of parking requirement from 42 to 38 spaces to allow a lot split. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12a, located Admiral Place & 78th East Avenue.

Presentation:

The applicant, **Patrick A. Sisemore**, represented by Charles Norman, 2900 Mid-Continent Tower, submitted a plot plan (Exhibit P-1), a parking easement declaration (Exhibit P-2) a site plan (Exhibit P-4) and photographs (Exhibit P-3). Mr. Norman stated the property is located on East Admiral Place and is entirely within CH zoning district as indicated on the case maps. The pictures show the building that is on Tract 1, which is a new building. The building on Tract 1 houses an optometry and opticians shop. He explained that on Tract 2 has a building that has been in existence for many years, which was formerly Brad's Auto Parts Store. Mr. Norman stated that the building on Tract 2 is now occupied by a pawn shop and a small dry cleaning plant. Mr. Norman explained that upon application for the lot split and financing, it was discovered that Tract 1 conforms to the parking requirement, but Tract 2 is short on parking under the current parking standards. He stated that the two properties together are short a total of four parking spaces under the present business and Tract 2 will be short eight parking spaces if it were entirely occupied by retail commercial

Case No. 17700 (continued)

uses as it was in the past. Mr. Norman informed the Board that there is a filed reciprocal parking easement permitting business customers on both lots to park on the other with a driveway between the two tracts. Mr. Norman stated that Tract 2 has been non-conforming all the years that it was in existence and after the amendment of the Code. He requested the Board to approve the split of the two properties with Tract 1 as conforming and Tract 2 to be approved with 39 spaces for the uses permitted in the CH district with the exception of excluding any restaurants or bars.

Protestants: None.

Comments and Questions:

Mr. Dunham asked Mr. Norman if he is comfortable with the variance he is requesting? He stated that the variance would permit the existing occupancy to continue, but the dry cleaning plant is at a slightly different ratio. He explained that if the dry cleaning plant were to change back to a retail/commercial use, it would be short four more parking spaces.

In response to Mr. Dunham, Mr. Gardner stated that Mr. Norman is asking the Board to approve the lot split with the condition of the easement and limit the usage of the other building to restrict it from uses that would be short of parking spaces.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** of parking requirement from 42 to 38 spaces to allow a lot split. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12a, subject to there not being restaurant or bar uses allowed on Tract 2 or other uses which have higher parking ratios not allowed for normal retail commercial use; subject to the continuation of the mutual parking access agreement filed between Tract 1 and Tract 2; finding that the uses currently exist and that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

E 125.00', W 228.5', E 340.5', Lots 1 & 2, Block 2, Tommy-Lee Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17701

Action Requested:

Minor Special Exception to permit residential accessory uses and structures on abutting residentially zoned lots under common ownership. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** and BOA Policy #4, dated April 27, 1993, located 11904 East 17th Street.

Presentation:

The applicant, **John H. Buechler**, 11904 East 17th Street, submitted a site plan (Exhibit Q-1); letter of support (Exhibit Q-2) and photographs (Exhibit Q-4). Mr. Buechler stated he acquired the subject property when it was in disrepair. He explained that there are two (2) reasons why he purchased the property; one reason was to be rid of a health hazard and drug dealing. Mr. Buechler indicated that the subject property has had problems with drug use, broken bottles, needles and various drug paraphernalia in the existing building. He stated he has secured the building and fenced off the subject area. Mr. Buechler requested approval to use the subject property to park his personal vehicles and work truck. He stated that he has installed lighting to secure the area and make the neighborhood safer. Mr. Buechler indicated that he has done everything asked of him by the Code Enforcement Officer, Roy Ballentine. He stated he has never been fined by the Code Enforcement Officer. Mr. Buechler concluded that he would like to park his vehicles, boats, trailers and work truck on the subject property. He indicated that he has an office in the existing building for his tool business, but there is no commercial business being conducted on the subject property.

Comments and Questions:

Ms. Turnbo asked the applicant if he sells tools in his home? He stated he sells tools out of his truck on a route throughout Tulsa. He explained that his routes include dealerships and he sells the tools to mechanics. He stated that his truck is a very expensive item and has several hundreds of thousand dollars worth of tools. Mr. Buechler explained that he would like to park his tool truck on the subject property because it is fenced and has security lighting.

Ms. Turnbo asked the applicant if he had an office he went to or office out of his home? Mr. Buechler stated that he uses 1/3 of the existing pool building and the rest is used for storage.

Protestants:

The following concerns were voiced by the protestants: Detriment to the neighborhood and community; inoperable cars on the subject property; value of the surrounding properties decreasing; adding to the deterioration of the subject area; the area needs to be cleaned and improved to go with the rest of the houses in the area; activities on the subject property will upset the quiet and stable neighborhood; fear that the applicant cannot maintain the property in a clean and neat fashion; possibility for more activity and traffic in the neighborhood; use of the property is not appropriate for the surrounding area; concerned that the large carport will be used for repair and paint work on vehicles; unsightly outside storage; fear for the safety of the children in the neighborhood; fear of rodents caused by the outside storage; security lighting shining into neighbor's houses; commercial activity in a residential neighborhood; working hours undesirable after 11:00 p.m., and noise from the subject property late at night.

The following protestants voiced the above concerns: **Jay Eddington**, (submitted a petition Exhibit Q-3) 1633 South 121st East Avenue; **Jimmy Strong**, (submitted photographs Exhibit Q-4) 1951 East 17th; **Anthony Mason**, 11933 East 16th Place; **Ben Furlow**, 11920 East 16th Place; **Oziam Hill**, 11917 East 17th Street.

Art Justis, 1302 South 122nd East Avenue, City Councilor District 6, stated that he opposes the applicant's proposal. He requested the Board of Adjustment deny this application based on the neighborhood's concerns and protest.

The following names represents protestants who did not speak, but oppose Case No. 17701:

Barbara Neuson, 11954 E. 16th Place, **Nell & LaNita Phillips**, 11957 East 17th Street, **Kenneth M. Davis**, 12216 E. 16th Street, **Bert Byrne**, 11959 East 16th Place, **Derek & April Greer**, 3315 S. 150th E. Ave., **Roger & Majorie Bayee**, 1617 S. 122nd E. Ave, **Geneva Eddington**, 1633 S. 121st E. Ave., **Roger & Betty L. Reinhart**, 11960 E. 16th Place, **Sharon E. Graman**, 1623 S. 122nd E. Ave., **Pauline Gray**, 11842 E. 16th St., **Leon Herring**, 11730 E. 17th Place, **Paul Judd**, 1615 S. 121st E. Ave., **Emil & Jean Picard**, 11819 E. 16th St., **Walter & Mary L. Morris**, 11927 E. 16th Place, **Gary Smith**, 11945 E. 17th St.

Applicant's Rebuttal:

Mr. Beuchler stated he took some photographs of the property at 11:00 a.m. and felt that there are sour grapes with the neighbors because the subject property use to be a community swimming pool. He explained that the pool was sold because of back taxes. He further explained that the City filled the pool in because the previous owner would not secure the property. Mr. Beuchler stated he has secured the building and has done what has been asked of him by the Code Enforcement Officer. He explained that the land is unplatted and was donated by two individuals to the

community. He stated that there are 4 acres of unplatted land and he is not using all of the land. Mr. Beuchler commented that he presently mows the balance of the land. He stated that he has owned the property for nine (9) months and he is still trying to clean up the subject site. Mr. Buechler admitted that he does own several cars, including three (3) corvettes, that are parked on the subject property. Mr. Buechler informed the Board that three Tulsa Police Officers that patrol the area have written letters of support (see Exhibit Q-2). He requested that the Board approve his application.

Comments and Questions:

Ms. Turnbo stated she has a problem with the number of cars parked on the subject property. She informed the Board that she did see the applicant's commercial truck when she viewed the property, at which time she almost hit the truck because of the way it was parked in the street the day of the hearing. Ms. Turnbo stated the property is not zoned commercial and the applicant has a commercial truck parked on the subject property with a commercial office located on the subject property. She commented that the activity is not proper for RS-3 zoned property and it is injurious to the neighborhood.

Mr. Bolzle stated he is not sure that there is any way that the applicant can utilize the existing improvements on the subject property in a residential manner.

Mr. Dunham stated that the applicant is basically asking for the right to run a business in a residential neighborhood.

Mr. Bolzle commented that there are better ways that the applicant can accomplish storage of his commercial truck and automobiles. He suggested that the applicant have the unplatted property replatted with his residence and build an accessory building that is appropriately located and appropriately screened. The number of cars and the condition of the automobiles is a concern. Mr. Bolzle stated he did not know how the Board could adequately limit the use of the subject property if the Board was inclined to approve the use on some basis. The list of conditions would be extensive. The application is worded different than the use the subject property is being put to.

Mr. Gardner stated that in order to qualify as an accessory residential structure to the home, it must be of a nature incidental and subordinate to the residence. This is not the typical accessory structure to a residence and it was not designed for such. He stated that there are uses that would not be permitted and activities that are evident, the commercial truck, etc., which are zoning violation issues.

Mr. White stated that the Board has denied applications of a similar nature that were far less intrusive on the neighborhood.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **DENY** the Minor Special Exception to permit residential accessory uses and structures on abutting residentially zoned lots under common ownership. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** and BOA Policy #4, dated April 27, 1993; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Lot 35, Block 10, Cherokee Village Second, an addition in Tulsa County, Oklahoma, according to the recorded plat thereof, LESS and EXCEPT the following described property, to wit: Beg. SW/c, Lot 35; thence due E along S line of said Lot 35, for 87.93'; SE/c of said lot 35; thence due N along E line of said lot 35, for 27.00'; thence due W for 81.34' to a point on the W line of said Lot 35; thence S 13°42'47" W for 27.79' to POB; AND a part of the NE/4, SW/4, Sec. 8, T-19-N, R-14-E, more particularly described as follows to wit: beg. SE/c of said NE, SW, Sec. 8, thence due W along the S line of said NE, SW, for 686.54', thence due N for 182.79'; thence due N for 182.79', thence due E for 686.84' to a point on the E line of said NE, SW, thence S 0°13'04" E along the E line for 182.79' to POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17702

Action Requested:

Variance to allow a pole sign 90 SF, 15' high and 2 wall signs 285 SF each in an OM zoned district. **SECTION 602.B.4. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 21, located NW/c East 71st Street South & South Yale Avenue.

Comments and Questions:

Mr. Beach stated he did have a letter in the file, which amends the request. Mr. Beach assured the Board that the case is still properly before the Board because the request has been reduced and not increased. Mr. Beach stated that the applicant is deleting the pole sign request and reducing the 2 wall signs down to 150 SF per sign.

Presentation:

The applicant, **R.L. Reynolds**, 2727 East 21st Street, Suite 200, submitted a sign plan with a letter reducing the SF of the original request (Exhibit R-1) and an aerial photograph (Exhibit R-2). Mr. Reynolds stated he is representing Midfirst Bank, who is the applicant. He explained that his client has leased space at 7050 South Yale on the northwest corner of 71st and Yale. Mr. Reynolds reiterated that his client has deleted the 90 SF pole sign and decreased the size of the two (2) wall signs to 150 SF

per sign. He indicated that the property on the northeast corner of the subject intersection is zoned CS and the remainder of the property is zoned OM, same as the subject property under application. Mr. Reynolds stated that one of the unique factors of the subject property is that it is not in a PUD because it was developed before the PUD concept was popular. Mr. Reynolds proposes the wall signs will be located on the southside and the eastside of the building. He explained that you cannot see the subject building until you are right upon it and that is the reason it is necessary to put the wall sign on the eastside. Mr. Reynolds informed the Board that the view of the subject building is impaired by development and existing signage. He indicated that due to the topography in the subject area, the roof of the one story Benegin's Restaurant almost blocks three (3) stories view of the subject building. Mr. Reynolds stated that the City's signage, which is in the middle of the street to identify the streets, has 10" high letters. He further stated that on a City sign going into an intersection the letters are 5 1/4" high. He commented the City's larger signs are to make the sign visible and identifiable. Mr. Reynolds stated that the intersection is of two (2) primary arterial streets, which is a unique feature. He concluded that his client requested the variance because they believe that the literal enforcement of the Zoning Code results in a hardship for Midfirst Bank. He explained that the hardship is because the proximity of the subject building to the intersection is more than overcome by topographical features, maturing trees and the speed of traffic. He stated the request is within the spirit of the Code and does not harm the neighborhood or surrounding areas. Mr. Reynolds demonstrated to the Board, with slides, the sizes of various signs in the subject area. Mr. Reynolds stated he did not believe that the signage request is out of character for the neighborhood and it is a very unique situation based on the topography, etc.

Comments and Questions:

Mr. Bolzle asked Mr. Reynolds if the elevations is for the 250 SF or the 150 SF depiction? Mr. Reynolds stated the elevations is for the 250 SF and submitted new elevations for the 150 SF depiction.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott, "absent") to **APPROVE** a **Variance** to allow 2 wall signs 150 SF each in an OM zoned district. **SECTION 602.B.4. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 21; per plan submitted (sign on the east and south walls); finding that the topography of the surrounding area and the mature trees do affect the view of the subject building; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the purpose, spirit and intent of the Code, on the following described property:

Case No. 17702 (continued)

S 270.00', E 250.00', Lot 1, Block 1, Copper Oaks, an addition to the City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 17607

Action Requested:

Board of Adjustment to withdraw approval of the Application for a Special Exception and Variance, located 3819 South Lewis.

Comments and Questions:

Mr. Beach informed the Board that the request does not require any action today and is on the agenda for information only.

Presentation:

The applicant, **Vicki Hale**, representing SW Bell Wireless, Inc., 100 West 5th Street, Suite 1000, stated that in January 1997, the Board of Adjustment granted SW Bell Wireless, Inc. an application for a special exception and a variance to build an 86' steeple or bell tower with a personal communication service antenna on the inside. She explained that several homeowners in the neighborhood have appealed the Board's decision, which is still pending in the Tulsa County District Court. Ms. Hale stated that SW Bell believes that the Board's decision was correct and confident that they would prevail on the appeal. However, SW Bell intends to be a service provider in the community for many years to come and wants to foster cooperation and goodwill in the community to the extent possible without compromising the business and service needs of the Company. She stated that since early February SW Bell has been exploring and researching the possibility of obtaining alternative sites for this tower, which will give adequate coverage to the neighborhood without having to go into the residential area. She indicated that SW Bell has been successful and has located two (2) sites in commercial areas, which utilized together will provide the same coverage to the residential area. This is less optimal than the original site and it requires duplication of the facilities. She explained that the coverage is somewhat different because the tower is not located in the middle of the residential area, but nevertheless, SW Bell is willing to utilize the two (2) alternative sites. She concluded that SW Bell will not be building the tower at 3801 South Lewis and therefore would like to withdraw the special exception and variance that was granted on January 14, 1997. She stated it is no longer encumbered by or subject to any sort of special exception or variance.

Comments and Questions:

Mr. Romig, stated that all of the interested parties of Case No. 17607 have been trying to figure out how to undo the approval granted by the Board and then appealed in District Court. He explained that originally it was proposed that a journal entry or order where the District Court denied the relief granted. Mr. Romig stated he objected to the journal entry because it is tantamount to the Court saying the Board made a wrong decision. He explained that once an appeal is made to the District Court the lower body loses jurisdiction over the case. Technically the Board of Adjustment has lost jurisdiction and it is now totally before the District Court. Mr. Romig stated that there is a pre-trial hearing set for Monday, April 28, 1997. He explained that he would like to go to the District Court and state that SW Bell has presented this request to the Board of Adjustment and the Board has no problem with the withdrawal. At that time, we will present an order to the Court which states that the request has been made, the Board has no problem with the withdrawal and the relief is declared to be moot and no force in effect. He stated that the Court Order will be based upon the withdrawal and the Board's having no objection to the withdrawal.

Mr. Schuller, representing the Protestants, stated he proposed the judgment for a means to resolving and disposing of the appeal, special exception and variance. He further stated that he thought he had carefully drafted the order or judgment to omit any findings or conclusions that might have given rise to an implication that the Board acted improperly in granting the special exception and variance. Mr. Schuller commented that in Mr. Romig's mind that implication is still there and he does not want the Board to have the impression that he thought the Board had acted improperly, other than in the grounds of the appeal cited. He stated he did not have a problem with rendering the appeal moot if there is some sort of determination by the Board that the variance and the special exception are definitely withdrawn, removed from the records of the Board of Adjustment, as well as the maps, where variances and special exceptions granted are noted, at INCOG. Mr. Schuller stated that after all of the conditions are met regarding the maps and records, he will be happy to sign off on any kind of a disposition stating that the appeal is moot.

Mr. Romig stated that again the Board has lost all jurisdiction of the case. At this point the Board cannot declare the appeal moot. He stated the decision will have to come through the Court Order and once that happens then the records can be removed and the maps changed.

In response to Mr. Dunham, Mr. Romig stated that he needed a sense of the Board that they do not have any objections to the proposed process discussed.

Mr. Bolzle asked Mr. Romig if the intent is to solve the appeal, but also to preclude any other carrier from utilizing the Board's relief? Mr. Romig answered affirmatively.

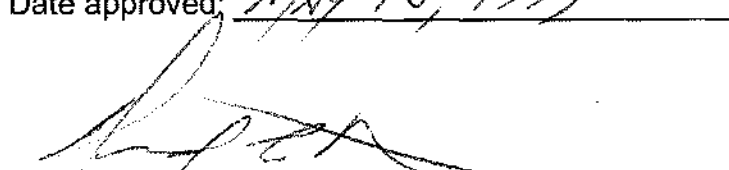
Case No. 17607 (continued)

Mr. Bolzle asked Mr. Romig if the church would have to build the steeple or bell tower that is approved by the Board before they could seek another PCS antenna? Mr. Romig stated that under the new ordinance, before the church could seek the exception to install the antenna in a tower, the tower would have to be an existing tower.

After discussion, the Board stated they had no problem with the concept presented by Ms. Hale, Mr. Romig and Mr. Schuller.

In response to Ms. Hale, Mr. Gardner stated that if the District Court tells the Board to withdraw the special exception and variance then the Board will do so and there will be no need for a hearing. However, if the District Court requires a formal action by the Board then there will need to be a hearing and notice.

There being no further business, the meeting was adjourned at 4:50 p.m.

Date approved: May 13, 1997

Chair