

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 727
Tuesday, May 27, 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
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Bolzle
Cooper
Dunham
Turnbo
White, Vice Chair

Gardner
Beach
Huntsinger

Ballentine, Code
Enforcement
Romig, Legal
Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Thursday, May 22, 1997, at 3:31 p.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:

The minutes of May 13, 1997, (No. 726) were not ready for approval and were continued to June 10, 1997.

UNFINISHED BUSINESS

Case No. 17679

Action Requested:

Variance of the 150 day time limit to 210 days for a previously approved open-air sales of yard furniture; produce, misc. retail and flowers in a CS zoned district. **SECTION 1202.C.1. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Use Conditions, located 2102 South Yale.

Presentation:

The applicant, **Sandra Harmon**, 5756 East 28th Street, requested an extension of days of operation to 210 days.

Comments and Questions:

Mr. Bolzle asked the staff if the applicant has been informed that she will need to state a hardship for the extension of days? Mr. Beach answered affirmatively.

Case No. 17679 (continued)

In response to Mr. Bolzle, Ms. Harmon stated she would like to continue her open-air sales through Christmas and without the extension of days she would not be able to stay through Christmas. She explained that she would have to discontinue her open-air sales for a period of time and then re-open in time for Christmas.

Mr. Bolzle asked the staff if they had determined what might constitute a hardship for a temporary business to be granted an extension to 210 days? Mr. Beach answered negatively.

Mr. White asked the staff how many previously approved variances and special exceptions are conflicting with Ms. Harmon's request currently? Mr. Gardner stated that this is the first time an applicant has requested to go beyond the 150 days. The ordinance was written for temporary type use as oppose to a permanent type use.

In response to Mr. Dunham, Mr. Gardner explained that if the applicant had a building and she sold merchandise out of the building along with open-air sales, the sales are considered accessory to the principal use within the building. If the open-air sales is the principal use on the subject property and is far less then half a year, then it is considered temporary and anything beyond half a year is considered permanent use of the property. Mr. Gardner stated that the Board advised the applicant when she continued the balance of her application that the burden would be on her to demonstrate a hardship.

In response to Mr. White, Mr. Beach stated that the applicant indicated at her first hearing that the previously approved applicant had never exercised his right to use the subject property. The owner of the subject property reaffirmed the applicant's statement. It appears at this time that Ms. Harmon is the only open-air sales occupying the subject lot.

Ms. Turnbo asked the applicant if she is currently selling landscape materials and ornamental yard swings at the subject location? She answered affirmatively.

Mr. Gardner stated that the applicant's ornamental yard swings stay on the subject property permanently until they are sold. He explained that the landscaping materials is seasonal and the applicant can sell the materials within the 150 day limit, however she did not want to remove the ornamental yard swings for a period of time and then bring them back again for the Christmas season.

Mr. Bolzle commented that because some of the items for sale are difficult to move does not constitute a hardship as far as the Code is concerned.

Case No. 17679 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **DENY** Variance of the 150 day time limit to 210 days for a previously approved open-air sales of yard furniture; produce, misc. retail and flowers in a CS zoned district. **SECTION 1202.C.1. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Use Conditions; 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:

Mayo Meadow except part Block 1, beg. 20' S, NE/c, thence S 199', W 72', NW 267.7', N 63.3', thence E to pt SE 31.35', POB, Block 1, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17713

Action Requested:

Variance of required parking from 204 to 183 spaces. **SECTION 1211. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES; SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS, OTHER THAN DRIVE-INS; SECTION 1213. USE UNIT 13. CONVENIENCE GOODS AND SERVICES; SECTION 1214. USE UNIT 14. SHOPPING GOODS AND SERVICES,** located SW/c East 21st Street & Utica Avenue.

Presentation:

The applicant, **Kevin Coutant**, 320 South Boston, Suite 500, submitted a site plan & photographs (Exhibit A-1) , a parking analysis (Exhibit A-2) and letters of support (Exhibit A-4). Mr. Coutant stated he is representing Ruth's Chris Steak House and Utica Plaza. He explained that the parking variance involves property that has mixed uses and also mixed schedules of use. The property is located on the southwest corner of 21st and Utica, which is the Utica Plaza Building. The subject property is a new structure with two exits running north on 21st Street out of the structured parking, as well as two enter/exits on Utica Avenue. Mr. Coutant stated the restaurant will occupy approximately 7500 SF and there is upper level parking on the structured parking facility. He explained that the balance of the parking for the subject property is underground. The two levels house the entire parking for the subject property. The property was originally designed as a mixed use property which has approximately 47,000 SF. Mr. Coutant stated that 15,000 SF of the subject property was intended for retail use and the balance (approximately 32,000 SF) was intended for office use. The subject property was built with the full complement of parking for the intended uses with 185 parking spaces. Some of the property that was intended for retail use has been leased for office use and the remaining square footage to lease is the 7500

SF for the proposed restaurant and a small 1250 SF bay that is available for retail. Mr. Coutant stated that the subject property was built with only one building setback variance, but otherwise it meets all of the ordinances. The application involves a restaurant that is unique and limits its hours of operation to after 5:00 p.m., which is key to this application. The lease specifies that the restaurant cannot open the doors to the public until 5:00 p.m. (the restaurant will not serve breakfast or lunch). Mr. Coutant informed the Board that the restaurant will not be opened during the normal business hours for the offices in the subject property. He stated the Zoning Code contemplates one type of restaurant, which has one number for parking (1 parking space for every 100 SF). The proposed restaurant will only be opened after the offices are closed for business. He referred to a photograph in Exhibit A-1 which shows the parking after 5:00 p.m. on a Thursday, three weeks previously. Mr. Coutant stated the photographs are indicative of the traffic that was present at the time. He informed the Board that Deshazo, Tang & Associates, Inc., a parking consultant company, was hired to review the parking issue on site. The report reflects that the facility is currently 70% utilized and all of the office space is occupied except for the portion that is at the ground level at the corner. The consultants checked the parking facility on an hourly basis and charted the usage (see Exhibit A-2). Only 41% of the parking capacity is being used at the maximum point by the current tenants of the property. The consultants also conducted an analysis of the parking that would be required (both looking at the actual experience and looking at the application of the Code), which turns out that the Code is much more demanding than the actual experience for the office use. Mr. Coutant referred to the parking study with regard to the proposed parking spaces required for the future based upon the normal Zoning Code requirements. After a lengthy discussion of the parking study, Mr. Coutant stated the parking study was conducted to determine if there was any practical risk that the available parking would not be adequate or that the parking would spread out into the neighborhood. He commented he was pleased to find that there is ample parking on site and the Zoning Code does not contemplate the type of use he is proposing. Mr. Coutant cited Section 1305, which does address the mixed uses concept, however he realizes that this application does not come within Section 1305 because of its size, but the Code does contemplate that there are possibilities of efficiencies of use because of mixed use. Mr. Coutant expressed the opinion that it would be appropriate to discount the proposal a 10% discount on the required parking because of the mixed use and mixed scheduling. Mr. Coutant stated that the Code throws all restaurants into a single use category and this is an extraordinary circumstance that supports the application. He indicated that there were similar applications granted in the past and listed the following: 61st & Yale, The Brook Restaurant, Eaton Square, etc. Mr. Coutant cited several Cities that have separate categories for quality restaurants with regard to parking space requirements. Mr. Coutant stated that the Ruth Chris Steak House would fall in the quality restaurant category, however the City of Tulsa's Code does not have this category. He commented that it would be appropriate that any approval be conditioned. Mr.

Case No. 17713 (continued)

Coutant suggested a condition should be that restaurant approval be contingent upon the restaurant only be open for public use after 5:00 p.m. He stated he has contacted one of the neighbors in the subject area regarding the proposal and offered to meet with the neighborhood. He indicated that there was no response from the neighborhood with regard to meeting or discussing the proposal. Mr. Coutant suggested that if the subject property was fully utilized with office and retail there would be more traffic than allowing the proposed restaurant to occupy the 7500 SF after normal work day hours.

Comments and Questions:

Ms. Turnbo asked the applicant if the offices leasing from the subject property are currently required in their lease to leave by 5:00 p.m.? He answered negatively.

Ms. Turnbo asked the applicant if there is a chance that in the future an office in the subject building may start staying open until 7:00 p.m. or 8:00 p.m.? He stated he does not know that in a contractual sense, but he knows in a practical sense that it will not happen. He explained that he knows who the tenants are, the parking practices, and the type of business the tenants are in. He stated that although that is not precise and guaranteed, he feels that it is meaningful enough and recognized by the Board.

Ms. Turnbo asked the applicant if the restaurant plans to privately rent out their facility in the off-hours? He stated that the restaurant has no plans to be open privately during the off-hours and the Board could make that an additional condition in the motion.

Mr. Gardner asked the applicant if he is reducing the retail space from 15,000 SF to 1250 SF by this application? He answered affirmatively.

Interested Parties:

Gregg Faia, representing the Ruth's Chris Restaurant, submitted photographs of the proposed restaurant (Exhibit A-3) and stated that there are 61 Ruth's Chris restaurants across the country. He explained that the restaurant is not a heavy turnover restaurant and the intent is for the guest to stay for a long time and enjoy themselves. He described the restaurant as a white tablecloth restaurant and the average build out of this type of proposal is around a million and one half dollars. Mr. Faia indicated that the restaurant will employ approximately 40 to 50 employees. He stated that the current communities have no complaints with the restaurants and enjoy the restaurant.

Comments and Questions:

Ms. Turnbo asked the applicant how many employees will work per shift? He stated approximately 20 employees per shift.

Case No. 17713 (continued)

In response to Ms. Turnbo, Mr. Faia stated that the bar has only six seats. The bar is not very large.

Protestants:

Joyce Saunders, 1572 East 22nd Street, submitted a letter of protest (Exhibit A-6) and stated she has concerns regarding the parking. She commented that the cars will park in her neighborhood when they are coming to the restaurant. She indicated that cars will park along 22nd Street, St. Louis and Troost. Ms. Saunders stated that the pattern of parking cars along the a mentioned streets has already taken place. She expressed concerns that the applicant requested a 10% decrease in the required parking spaces because this will add to cars parking in her neighborhood in the evening hours. Ms. Saunders indicated that the noise level will increase with cars coming and going to the restaurant in the evening hours. She commented that the neighborhood is a very stable neighborhood and she has lived there 55 years. She requested that the Board deny this application and protect the livability of the surrounding neighborhood.

Jack Zanerhof, 2235 South Troost, representing Terwillger Heights Neighborhood Association, stated that prior to the subject property being built, the neighborhood was approached by Mr. Bumgardner concerning a variance of the structure encroaching upon the residential area. He explained that Mr. Bumgardner wanted to build a large mixed use structure that would take up an extra block that is currently residential property. During the meetings with Mr. Bumgardner, the neighbors insisted on the integrity of the residential area being maintained. He states that the neighbors were successful with requiring him to build any structure within the existing commercial zone. However, based on the history with this particular structure and owner, he is very concerned. Mr. Zanerhof stated that the owner of the subject property has threatened the neighbors with a convenience store when they did not agree with his proposals. He explained that the owner stated the subject property would be strictly retail and office, however now he wants to put in a restaurant. Mr. Zanerhof stated that the neighbors are not reassured by the fact that the restaurant will not be opening until 5:00 p.m. when everyone is home and the children are outside playing. He suggested that it will be more offensive to have cars coming and going to the restaurant when the neighbors are coming home for work and want to live in their neighborhood. He indicated that McGill's Restaurant, which is close to the subject property, does not have sufficient parking and their customers park in Utica Plaza. The economic benefit to Tulsa should not be at the cost of citizens living in their neighborhoods. Mr. Zanerhof stated that the examples Mr. Coutant mentioned as examples of similar variances is not the same as Terwillger Heights. He expressed concerns regarding the children's safety in the neighborhood with the increase of traffic that will be associated with the restaurant. He suggested the proposed restaurant should be smaller so that it can comply with the Code. Mr. Zanerhof requested the Board to consider the concerns voiced by the neighborhood and to deny this request.

Comments and Questions:

Mr. Cooper asked the applicant what time of day he found that McGill's Restaurant overflowed their parking lot? Mr. Zanerhof stated that it was primarily during the evening hours.

Protestants:

Nita Boring, 2120 South St. Louis, stated she reiterates Mr. Zanerhof's comments. She informed the Board that ever since the subject property has been constructed she has noticed that her street is used as a thoroughfare to reach Utica Square. She stated the neighborhood has experienced cars speeding through the neighborhood and a problem with the children's safety. Ms. Boring commented that the restaurant cannot control their customers and the customers are going to find it very convenient to park on St. Louis and walk to the restaurant. She requested to know the closing hour of the restaurant. Ms. Boring detailed problems the neighborhood has experienced from McGill's Restaurant as follows: garbage overflow, rodent problems from the garbage, disturbances at 3:00 a.m. when the trash service picks up the garbage. She requested the Board to consider these concerns when deciding this application.

Bart Speegle, 2202 South Utica, stated he agrees with Mr. Zanerhof's concerns. Mr. Speegle explained that he is also in the food service industry and the Zoning Code minimum required parking for a restaurant is very minimum. He stated that restaurants do approximately 80% of their business between 5:00 p.m. and 10:00 p.m., which overflows into the streets and adjacent parking lots. Mr. Speegle commented that the six (6) seats at the bar does not address how many people will be standing in line waiting for tables. He indicated that six (6) months ago the subject property had an office party and the traffic overflowed their parking lot, which resulted in people parking in the neighborhood. Mr. Speegle asked the staff where the 40 to 50 employees will be parking while working at the restaurant.

The following names represent protestants who expressed the same concerns as the above protestants:

Angela Mosely, 1561 East 22nd Street; **Mike Tolson**, 1522 East 22nd Street, **Kathy Alonian**, representing Helmrich & Payne, **Mike Nunnelee**, 2106 South St. Louis, **Robert Jones**, 2217 South Troost, **Nancy Davis**, 2112 South St. Louis.

Additional Comments:

Mr. Zanerhof stated that Mr. Coutant mentioned during his presentation that the owners of the subject building attempted to meet with the neighborhood. He indicated that he is registered through the Mayor's Office as a neighborhood representative and no one tried to contact the neighborhood association or himself prior to today.

Mr. Tolson stated that Mr. Coutant did speak with him regarding this application. He indicated that his schedule did not permit him to speak with the neighbors concerning this application. Mr. Tolson stated he did mention the application to some of his neighbors.

The following names represent protestants who did not speak:

Jim Boring, 2130 South St. Louis, **Carole Nunnelee**, 2106 South St. Louis, **Mr. & Mrs. Surber**, 2205 South Troost, **Tony Hekt**, 2234 South St. Louis, **Felicia & Robert Matthews**, 2235 South Troost, **Gary L. Davis**, 2112 South St. Louis, **Juneal Saunders**, 1572 East 22nd Street, **Mrs. CR. Jones**, 2219 South Terwillger, **Bill Mathers & Cecilia Ackley**, 2117 South Terwillger, **Pam Cornett**, 2232 South St. Louis, **Deidra Kirtley**, 2243 South St. Louis, **Denise Payne**, 2239 South St. Louis, **Ruth Gode**, 2403 South Troost.

Protestant's submitted a Petition (Exhibit A-5) protesting this application.

Applicant's Rebuttal:

Mr. Coutant stated that the concerns of the neighbors seemed to be traffic and parking. He explained that consultants were hired to study the parking issues and have given the Board the best facts that can be generated with regard to the parking that is in fact going to result if this application is granted. Mr. Coutant stated that there may be more traffic through the residential area due to the restaurant, however there has been a lot of commercial traffic in and out of the subject site for decades. He explained that the subject site was a service station in the past. Mr. Coutant reminded the Board that the subject site was not a residential neighborhood that has been taken over for a commercial use, which resulted in big changes in traffic patterns. He stated that the Board should not disregard the fairness in this application based an expectation that somehow there may be traffic throughout the neighborhood, especially when there is a better alternative. Mr. Coutant indicated that he cannot speak about the parking issues associated with McGills. He explained that McGills is not part of this application and it is not before the Board today. He reiterated that the subject property has available parking. The customers cannot walk through the neighborhoods in order to get to the restaurant because there is a wall on the southside of the subject property. Mr. Coutant stated he understands the neighborhood's concerns, but he does not think that it stands scrutiny in this context. He suggested that the hardship is that the Zoning Code does not contemplate this kind of mixed usage. He stated that the extraordinary circumstances that would allow the Board to grant a variance is that the Zoning Code has one parking requirement for a wide range of restaurants, which has no flexibility. Mr. Coutant reiterated that he did his best to contact the neighborhood and talked with Mr. Tolson. He commented that Jeannie McDaniel from the Mayor's Office also tried to contact the neighborhood.

Case No. 17713 (continued)

Comments and Questions:

Mr. White asked the applicant what the seating capacity will be for the proposed restaurant? He stated the seating capacity will be approximately 175 seats.

Mr. Bolzle asked the applicant if the restaurant is not like the typical 5:00 p.m. bar type of restaurant where there might be shoulder to shoulder crowds? How will the Board distinguish this restaurant assuming the Board is considering to grant this application? He expressed concerns that the steak house may leave at some point and a more intensive restaurant will move in. Mr. Coutant stated that one way that distinction could be made is with the condition of not opening the restaurant until 5:00 p.m.

Mr. Cooper asked the applicant what the intended closing hour will be for the restaurant? Mr. Coutant stated the closing hour is 11:00 p.m. He explained that the subject property is separated from the residential area to the south by an 8' masonry fence. The fence is a very substantial structure designed to appropriately address the fact that CH zoning is right up against RS zoning.

Mr. Cooper asked the applicant to address the noise after operating hours such as the trash pickup? Mr. Coutant stated that the Board could set the hour limits of pickup and delivery services and it would be appropriate. He commented that his client will give the reassurance that the trash will not be picked up at 3:00 a.m.

Mr. Dunham asked the applicant if the subject property is experiencing any traffic overflow from McGill's Restaurant? Mr. Coutant stated that the Deshazo report acknowledges that there is some overflow parking from McGill's Restaurant. The report stated the overflow parking is not a big problem, but it could be addressed if it becomes a problem.

In response to Mr. Dunham, Mr. Gardner stated he did know if McGill's parking is insufficient as to the Code, but the restaurant may have more customers than the Code accommodates. He reminded the Board that the parking Code is a minimum requirement.

Mr. Cooper asked the staff what reasonable restrictions the Board has implemented in the past on restaurants in terms of valet parking to minimize the overflow parking into neighborhoods? Mr. Gardner stated he did not know if valet parking has ever come up regarding restaurants, however valet parking has come up as a solution for a Bed and Breakfast (The McBirney Mansion) where the requirement was that they have valet parking for the larger special events. Mr. Gardner explained that when the subject property was developed it was limited based on the number of parking spaces it could provide on site. He stated the subject property must stay within the required parking requirement unless they are granted a variance. Mr. Gardner indicated that the size of the restaurant is requiring the parking variance since they are asking for 7500 SF rather than 3500 SF (Code would permit 4000 SF).

Case No. 17713 (continued)

Mr. Coutant stated that the subject property is currently striped for 175 parking spaces, however it can be re-striped within Code to 185 parking spaces. He indicated that if the requested variance is approved, the subject property will be re-striped for 185 parking spaces.

Mr. Cooper asked the applicant what the smallest restaurant his client has built in the 61 restaurants as far as square footage? Mr. Coutant stated the smallest restaurant the company owns is 7,000 SF.

In response to Mr. Cooper, Mr. Gardner explained that the Board of Adjustment does not have jurisdiction to address street closings, etc. He stated the City of Tulsa would have to address any street closings.

Ms. Turnbo stated that there is no hardship for the requested variance. She explained that the subject property is not an older building that is trying to renovate and fit in the Code. She stated the subject property is new and the building codes were known at the time of development. Ms. Turnbo commented that the proposal will be injurious to the neighborhood because of the lack of adequate parking, customers will park on the streets in the residential area. She stated the proposal does not meet Section 1607.C. of the Code.

Mr. Bolzle stated that there were unusual circumstances presented that meet the requirements of the Code as to hardship. He commented that the limitation on the hours of operation can be construed as a unique or unusual circumstance that the Board could consider as a hardship. He stated that there is separation of the restaurant from the residential uses.

Ms. Turnbo stated that unless the Board can limit the other occupants of the subject building to exit by 5:00 p.m. and no one leasing the subject building can have an office party that would go into the night, then the variance is injurious to the neighborhood. She commented that the Board cannot control the tenants of the subject building and their hours of operation.

Mr. Dunham stated that the applicant has presented that there is adequate parking considering that the restaurant will be open after 5:00 p.m. when the offices will be closing for the day.

Ms. Turnbo reminded the Board members that the required parking is minimum standards and there are restaurants in the subject area that are not parking in the parking lots that they are suppose to park in. This application will only add to an already existing parking problem. Ms. Turnbo commented that by the restaurant having a bar with stools, there may be customers who come in just for a drink or two and then leave, which will create more traffic coming and going.

Case No. 17713 (continued)

Mr. Bolzle commented that the surrounding neighborhood suffers from activities at Utica Square. He stated he did not see the after hours concern with this proposed use. Unfortunately the subject property was developed with minimal parking from the beginning. Mr. Bolzle expressed concerns of another more intensive restaurant moving in the subject site if Ruth's Chris Steak House decided to move out.

Mr. Cooper stated that there is going to be traffic because there is a development in place and the question is how much worse is the proposal and is there a hardship? The site can probably handle the parking after being re-striped.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 2-3-0 (Turnbo, White, "aye"; Bolzle, Cooper, Dunham "nays" no "abstentions"; none "absent") to **DENY** a **Variance** of required parking from 204 to 183 spaces. **SECTION 1211. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES; SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS, OTHER THAN DRIVE-INS; SECTION 1213. USE UNIT 13. CONVENIENCE GOODS AND SERVICES; SECTION 1214. USE UNIT 14. SHOPPING GOODS AND SERVICES;** finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request.

Motion failed with a 2-3-0 vote.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-2-0 (Bolzle, Cooper, Dunham, "aye"; Turnbo, White "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of required parking from 204 to 183 spaces. **SECTION 1211. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES; SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS, OTHER THAN DRIVE-INS; SECTION 1213. USE UNIT 13. CONVENIENCE GOODS AND SERVICES; SECTION 1214. USE UNIT 14. SHOPPING GOODS AND SERVICES;** per plan submitted; subject to the following conditions: 1. The restaurant hours of operation will be 5:00 p.m. to 11:00 p.m. only; 2. No outside food service or dining; 3. No service activities at the restaurant between 11:00 p.m. and 7:00 a.m., and 4. Subject to the parking lot area being re-striped for 185 parking spaces, on the following described property:

Case No. 17713 (continued)

Lots 4 & 5, Block 1, Terwilleger Heights Addition LESS N 10.5' Lot 4 and N15.0' Lot 5, AND all of Lot 9, Terwilleger Terrace, a Resubdivision of Lots 1, 2, 3, 18, 19 & 21, Block 1, Terwilleger Heights Addition, AND Lots 2, 3, 4 and 5 said Terwilleger Terrace LESS N 10.5' and Lot 1 said Terwilleger Terrace LESS AND EXCEPT following: Beginning at NW/c said Lot 1; thence S along W line said Lot 1 for 10.5'; thence E parallel to the N line said Lot 1 for 49.94'; thence SEly for 39.75' to a point on E line Lot 1 being 60.85' from SE/c thereof; thence NEly along a curve to the left with a radius of 365.0' for 40.0' to NE/c Lot 1; thence W along N line Lot 1 for 80.0' to POB.

Additional Comments:

Mr. Coutant asked the Board to define the condition regarding there being no service activities at the restaurant between 11:00 p.m. and 7:00 a.m. Mr. Bolzle explained that there can not be any deliveries or trash pickups at the hours designated.

Case No. 17714

Action Requested:

Special Exception to allow a used auto sales in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 2212 East Pine Street.

Presentation:

The applicant, **Sandra Gomez**, was not present.

Comments and Questions:

Mr. Beach explained that this case has been continued due to the applicant failing to attend the first hearing.

Mr. White informed the Board that the applicant is in business and selling cars presently.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none, "absent") to **DENY** without prejudice; finding that the applicant has failed to attend two (2) consecutive hearings, on the following described property:

N 155', Lot 4, Springdale Acre Lot Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17718

Action Requested:

Special Exception for school use on new property and existing property. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; a Variance of total number of required parking spaces from 1375 to 844. **SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Off-Street Parking and Loading Requirements; and a Variance to allow parking on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 12150 East 11th Street.

Presentation:

The applicant, **A. Blaine Imel**, was not present.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17718 to June 10, 1997, at 1:00 p.m.

Comments and Questions:

An Interested party informed the Board that he will not be able to attend the June 10, 1997, meeting and would like the continuance to be scheduled for June 24, 1997 at 1:00 p.m.

Mr. Bolzle asked the interested party what his purpose is to attend the hearing on Case No. 17718? The interested party stated he is interested in what the School Board is going to do with the subject property. He explained that he owns property adjacent to the subject site.

Board Action:

On an **AMENDED MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17718 to June 24, 1997 at 1:00 p.m.

NEW APPLICATIONS

Case No. 17705

Action Requested:

Variance of average lot width in a RS-1 district from 100' to 81' to allow a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 2448 East 75th Street South.

Comments and Questions:

Mr. Dunham stated he did not understand the staff's recommendation regarding the west proposed line being moved 61.65' west to meet the requirements.

Mr. Morris stated that he had a 300' tract and the tract to the west had two pieces which are actually connected. He explained that the staff was unaware of the two pieces of land being connected.

Mr. Beach stated that the site plan did not indicate anything with regard to the two pieces of land being connected and a house on the property, which prevents moving the lot line.

Presentation:

The applicant, **Warren G. Morris**, 2532 East 46th Place, submitted a site plan (Exhibit B-1) and stated that originally there were three lots in the platted subdivision. One lot was split off with 99' and 60 some feet of the adjacent lot. The first split left a tract that measures 135' x 300'. He explained that the subject lot is 100' wide by 150' deep with a panhandle extending to 75th Street. He stated actually the lot is 135' across the back and approximately 150' deep. Mr. Morris stated the subject lot has 35' of frontage on 75th Street South. The subject lot is surrounded by Oral Robert's University (ORU).

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Tumbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of average lot width in a RS-1 district from 100' to 81' to allow a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; per plan submitted; on the following described property:

E 35', Lot 10, all of Lot 9, Block 4, Lavelle Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17720

Action Requested:

Variance of the required 10' side yard setback to 9'-0" on south side to move house on property. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 107 North Gillette.

Presentation:

The applicant, **David H. Malone**, 1138 South 79th East Avenue, submitted a site plan (Exhibit C-1) and a plot plan (Exhibit C-2). Mr. Malone stated that the subject site is in an older neighborhood where all of the homes are over built for the lot and zoning. He explained that he owned the previous home on the subject property, however it was damaged by fire and torn down. Mr. Malone stated he has purchased a wood structured home and would like to move it onto the subject lot. He informed the Board that the proposed home has vinyl siding and will add to the neighborhood. He stated the proposed home is smaller than the previous home.

Comments and Questions:

Mr. Bolzle stated that this area is zoned RM-1, but the lot is really a single family RS-4 lot, but multi-family zoning requires 10' setbacks.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper, "absent") to **APPROVE** a **Variance** of the required 10' side yard setback to 9'-0" on south side to move house on property. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, per plan submitted; on the following described property:

Lot 10, Block 15, Cherokee Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17721

Action Requested:

Variance of setback from S. Rockford to allow a PSO transformer within street right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**, located SE/c East 4th Street & South Rockford.

Presentation:

The applicant, **Scott Thomas/State Construction Corp.**, applicant requested that this case be withdrawn.

Case No. 17722

Action Requested:

Variance of the maximum allowable number of signs in an OL district from 1 to 3. **SECTION 602.B.4.b. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 21, a Variance of the maximum allowable display surface area from 2/10 SF per LF street frontage to 250 SF. **SECTION 602B.4.c. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 21; and a Variance of the maximum allowable height from 20' to 30'. **SECTION 602.B.4.e. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS** - Use Unit 21, located 3810 South 103rd East Avenue.

Presentation:

The applicant, **Don Beatt**, not present.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" Cooper "abstentions"; none "absent") to **CONTINUE** Case No. 17722 to June 10, 1997, at 1:00 p.m.

Case No. 17723

Action Requested:

Variance of the 150' minimum frontage requirement in CS district to 105'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS.** Use Unit 13, located 1939 South Memorial Drive.

Presentation:

The applicant, **Jerry W. Ledford, Jr.**, 8209 East 63rd Place, submitted a plot plan (Exhibit D-1) and a site plan (Exhibit D-2). Mr. Ledford stated the request is for a lot split, which will leave a 105' of frontage on Memorial Drive. He explained that an Albertson's Store is currently on the lot, which is under a large remodeling project. He stated the remodeling is reducing the store by approximately 15,000 SF and the building fronts to 21st Street with 477' of frontage. Mr. Ledford indicated that a mutual access has been achieved with a new access point which will line up with the front of the store. He stated the two existing access points will be closed. He explained that the access proposal has been approved by TMAPC.

Comments and Questions:

Mr. White asked the applicant if the new lot line will split the access? He answered affirmatively.

Mr. Dunham asked the applicant if there is a use for the proposed lot? He stated that at this time there is not current use for the proposed lot.

Case No. 17723 (continued)

Mr. Dunham asked the applicant why the owner did not split the lot where the frontage will comply since there is no proposed use at this time? Mr. Ledford stated that initially the owner was looking at possibly two (2) pad sites and that is how 300' frontage came up. Mr. Ledford explained that the owner could have split the entire frontage off of Memorial, however, Albertson's wanted to maintain some ownership on Memorial for control purposes.

Mr. Bolzle stated the Board could approve the application per plan. He commented that there will not be a building on the 5', which is a secondary access. He stated the hardship is that Albertson's has frontage on two major arterial streets.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of the 150' minimum frontage requirement in CS district to 105'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS.** Use Unit 13; per plan submitted; subject to a mutual access as shown on the plan and subject to the closing of the two (2) existing curb cuts on South Memorial; on the following described property:

part of Block 9, "O'Connor Park", an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the official recorded plat thereof, Plat No. 1236, being more particularly described as follows: W/2, Block 9, LESS and EXCEPT the S 175', W 175', and less the N 5', and less the W 10' of the N 405.76'.

Case No. 17724

Action Requested:

Special Exception to approve church use on the E 40' & S 75' of subject tract. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS -** Use Unit 13, located 10901 South Yale Avenue.

Presentation:

The applicant, **Stephen A. Schuller**, requested a continuance to June 10, 1997 at 1:00 p.m.

Comments and Questions:

Mr. Beach stated that the request for a continuance is due to an error in advertising and therefore the case cannot be heard today because it is not properly advertised.

Case No. 17724 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17724 to June 10, 1997 at 1:00 p.m.

Case No. 17725

Action Requested:

Special Exception to allow a Use Unit 15 (medical equipment rental showroom and warehouse) in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15, located South side 61st, 388' West of Garnett.

Mr. White announced he will abstain from Case No. 17725

Presentation:

The applicant, **Crestline Construction Company**, represented by Jack McNolty, 601 South Boulder, submitted a site plan (Exhibit E-1) and stated the application is for an exception to allow Use Unit 15 on the subject property. He explained that the facility will be used for storage and it is in accordance with what the City has requested.

Comments and Questions:

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

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 (Bolzle, Cooper, Dunham, Turnbo, , "aye"; no "nays" White "abstention"; none "absent") to **APPROVE** a **Special Exception** to allow a Use Unit 15 (medical equipment rental showroom and warehouse) 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 Lot 1, Block 1, Neal Plaza Addition, being more particularly described as follows, to-wit: Beg. NW/c, said Lot 1; thence S89°51'14"E, for 122.00'; thence S for 8.00'; thence S89°51'41"E, for 28.00'; thence S for 152.00'; thence S89°51'14"E for 25.00'; thence S for 180.00'; thence N89°51'14"W, for 175.00'; thence N for 340.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17726

Action Requested:

Variance to permit required off-street parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 2818 West 40th Street.

Presentation:

The applicant, **Jeffrey G. Levinson**, requested a continuance to June 24, 1997 at 1:00 p.m.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** Case No. 17726 to June 24, 1997 at 1:00 p.m.

OTHER BUSINESS

Case No. 17712

Action Requested:

Request refund.

Presentation:

The applicant, **Floyd Bales**, requested a refund due to the fact that it would be a hardship economically for him since he is a Veteran.

Comments and Questions:

Mr. Gardner stated that the only portion of the application fee that cannot be refunded is the notice requirement.


In response to Ms. Turnbo, Mr. Gardner stated the applicant is requesting a refund of approximately \$200.00 or whatever the figure comes to after paying for the notice requirements.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **REFUND** Case No. 17712 approximately \$200.00.

There being no further business, the meeting was adjourned at 3:00 p.m.

Date approved: JUNE 10, 1997



Chair

