

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 730
Tuesday, July 8, 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 Cooper Dunham Turnbo White, Chair		Gardner Beach Huntsinger	Ballentine, Code Enforcement Parnell, Code Enforcement Jackere, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Thursday, July 3, 1997, at 2:13 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:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **CONTINUE** the minutes of June 24, 1997, (No. 729) to July 22, 1997.

Comments and Questions:

Mr. Beach stated that Case No. 17761 (Saba Grotto) was advertised as a special exception to allow a Lodge. However, the lodge was approved in 1953, Mr. Ballentine advised us that the Lodge was operating a bingo hall on the premises. The question at this point is whether or not the Bingo operation is an accessory use to the Lodge or a commercial Bingo operation? Mr. Beach requested the Board to determine if the Board has jurisdiction to hear this application. He explained that if the applicant is a commercial Bingo operation, then it is Use Unit 19 and is not permitted in the RM-1 district. The Board would not have jurisdiction if the Bingo operation was considered a commercial operation and a Use Unit 19. If the Board finds that the Bingo operation is an accessory use to the Lodge, then the application can be heard in its regular order today.

Mr. Ballentine stated that the complaint was an anonymous complaint with regards to the Bingo operation. Along with the complaint was included a copy of an advertisement advertising the Bingo operation and that it is open to the public.

Case No. 17761 (continued)

Mr. Gardner stated that some churches have Bingo every Friday night, which is an accessory use to the principal use because the principal use are the different church services held throughout the week and Sunday. The Board will need to determine if this is a private club, is the principal use or if the bingo hall is the principal use. The Bingo operation could be an accessory use to the private club if the Bingo operation is held only once a week. If this operation (bingo) is held several nights a week it is a commercial use and the Board has no jurisdiction in the matter.

Robert Howard, representing SABA Grotto, 15 West 6th Street, stated that SABA Grotto is an organization that is part of the Masonic Fraternity Organizations. He informed the Board that SABA Grotto is the current owner and occupant of the subject property, which has been in operation since 1953. He explained that Bingo is only four hours on Saturday nights, which would make it an accessory use to the principal function. The Bingo operation was for members only in the past, but recently the organization opened it up to the public in order to raise money for their charities.

In response to Mr. White, Mr. Howard explained that under the gaming law, the organization cannot vary from what has been approved by the State.

Chuck Davis, member representing SABA Grotto, stated that there is a regular meeting once a week and the organization meets two (2) or three (3) times a week for other reasons.

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 **APPROVE**: Hearing Case No. 17761 in the order it appears on the Agenda.

UNFINISHED BUSINESS

Case No. 17736

Action Requested:

Variance of maximum permitted height for a ground sign from 40' to 60'. **SECTION 1221.D.1 USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**, located East of 165th East Avenue & Admiral Place.

Presentation:

The applicant, **Paul W. McKnight**, not present.

Case No. 17736 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17736 to July 22, 1997, at 1:00 p.m.

Case No. 17742

Action Requested:

Special Exception to permit a public school in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located SE/c 11th & Yale.

Presentation:

The applicant, **Jack McSorley**, represented by Eric Nelson, 515 South Main, stated he is representing the Tulsa Public Schools (TPS), which is the owner and applicant. He informed the Board that the application is to seek a use exception and not a variance. He explained that the subject property is on 11th and Yale, which has been used for school purposes for well over 50 years. The subject site is a five (5) acre tract that is zoned R-3. He commented that the subject request is consistent with the spirit and intent of the Code as required under Section 1608. Mr. McSorley concluded that the special exception will not be injurious nor detrimental to the public welfare. He requested the Board to grant the exception and continued school use of the property.

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 **Special Exception** to permit a public school in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; 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:

W/2, NW/4, NW/4, NW/4, Sec. 10, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17747

Action Requested:

Variance of the rear yard requirements from 25' to 5', a Variance of the side yard setback abutting Cincinnati Avenue from 15' to 7' and a Variance of the required 5,000 SF of livability space to allow new construction. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 205 East 25th Street.

Presentation:

The applicant, **Charles T. Plake**, represented by Stephen Schuller, 320 South Boston, Suite 1024, submitted a site plan (Exhibit A-1), stated that his client is not requesting a variance for the livability space requirements. He explained that the subject lot is an irregularly shaped lot that is narrow in front (56' wide) and approximately 95' in width in the rear. The Lot is 9700 SF, which is more than the minimum lot size in an RS-2 zoned district. He informed the Board that the lot is smaller than most of the lots in this particular RS-2 zoned district. Mr. Schuller stated that the shape and size of the subject lot makes it difficult to expand and improve the home. The garage that is planned for the rear of the subject property is proposed to be connected to the house by a small hallway and laundry room. Many garages in the subject neighborhood are detached and are permitted to be in the rear yard as close as 3' to the rear property line. The proposed garage will be 5' from the rear property line, but because it is connected by the hallway it is considered a part of the house and will have to be 25' from the property line. The location of the lot on a corner creates an additional hardship by requiring a larger side yard setback along Cincinnati Avenue. The house would fit except for the additional side yard setback, which is only subject to a few lots in the subject lot. Most corner lots have additional land area that would accommodate the side yard setback requirement, however, the subject lot does not have the additional land area. The plan proposes to remain the requisite distance from the property line to the east. He indicated that there is a fence along Cincinnati Avenue that is slated to be removed and not replaced, which will visually create a greater setback from Cincinnati. Mr. Schuller submitted a letter of support (Exhibit A-2) and a petition of support signed by the neighbors (Exhibit A-3). He explained that his client has visited with his neighbors and they have expressed support for the proposal. Mr. Schuller concluded that by reason of the exceptional narrowness of the subject lot, shape of the property and the fact that it is a corner lot with the increased side yard requirements, the literal enforcement of the Zoning Code will result in an unnecessary hardship. These conditions do not apply to other properties in the same area. The variance will not cause substantial detriment to the public good nor impair the spirit, purposes and intent of the Zoning Code. Mr. Schuller reminded the Board that the Staff case reports cites five (5) previous cases in which the same or similar relief was granted by this Board because of the difficulty of complying literally with the Zoning Codes Bulk and Area requirements. Mr. Schuller stated that if his client designed a home to fit this lot it would be a narrow house, which would not conform to the existing development patterns in the subject neighborhood.

Case No. 17747 (continued)

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-1-0 (, Cooper, Dunham, Turnbo, White, "aye"; Bolzle "nays" no "abstentions"; none "absent") to **APPROVE** a **Variance** of the rear yard requirements from 25' to 5' and a **Variance** of the side yard setback abutting Cincinnati Avenue from 15' to 7' **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; per plan submitted; finding that the lot is an odd shaped lot and finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lot 7, Block 5, Sunset Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17756

Action Requested:

Special Exception for church use and accessory church uses in an RS-3 district.

SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 2, located 4929 S. Waco.

Presentation:

The applicant, **Rawlene Spear/Bible Fellowship Center**, represented by **Glenn Rodgers**, 10701 East Newt Street, a site plan (Exhibit B-1). Mr. Rodgers stated that his church performs outside living nativity scenes and needs a storage area for the props.

Comments and Questions:

After a lengthy discussion it was determined that the application is properly advertised.

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 **APPROVE** a **Special Exception** for church use and accessory church uses in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to a tie contract to the church use on the adjoining property; 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 3, Block 3, Greenfield Acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17757

Action Requested:

Special Exception to allow a 22' rear setback in an RS-2 zoned district to re-construct a non-conforming structure damaged more than 50% by fire. **SECTION 1405.B. STRUCTURAL NONCONFORMITIES** - Use Unit 6, located 5610 South Gary Place.

Presentation:

The applicant, **Joe Crutser**, 3428 East 11th, submitted a site plan (Exhibit C-1) and stated the subject property was damaged by fire. He explained that presently the slab, foundation and ducks are all in intact. The new construction will conform to the subject neighborhood where the house will be located. The zoning requires a 25' rear yard setback and the existing home is setback at 22'. To rebuild within the 25' rear yard setback requirement would cause 3' to be taken away from the garage, which would render the garage unusable for the purpose intended. He concluded that he would like to build the home back the same as it was before the fire. Mr. Crutser stated that there will not be any expansion and there will not be any changes from how the home existed for twenty (20) years.

Comments and Questions:

Mr. Dunham asked the applicant if the previous home's rear yard setback was at 22'? He answered affirmatively.

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 **Special Exception** to allow a 22' rear setback in an RS-2 zoned district to re-construct a non-conforming structure damaged more than 50% by fire. **SECTION 1405.B. STRUCTURAL NONCONFORMITIES** - Use Unit 6; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lot 6, Block 1, Harvard Place, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17759

Action Requested:

Special Exception to allow Use Unit 19, Bingo Facility, in an IL zoned district. This property is located: 4588 N. Mingo. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 19, located 4588 North Mingo.

Presentation:

The applicant, **Fred Greco**, representing the Tulsa Airport Authority (TAA), submitted a site plan (Exhibit D-1) and stated that the TAA has a potential tenant for the subject site. He explained that the subject property is the former Mingo School on the corner of 46th Street North and Mingo Road. The entire area surrounding the school was purchased for the purpose of noise abatement. The subject area is north of the American Airlines maintenance and engineering center. He stated the entire area has been razed and leveled.

Comments and Questions:

Mr. Bolzle asked the applicant to describe the proposed use? Mr. Greco stated that the proposed use is a non-profit organization holding a Bingo operation in order to raise funds.

Mr. Bolzle asked the applicant how many days of the week the Bingo operation will be conducted? Mr. Alan Mueggenborg, Coordinator for Black Gold Youth Foundation, stated that Black Gold is a non-profit musical youth organization. He explained that the organization has been operating charity Bingo since 1988 in the Tulsa area. He indicated that Black Gold is celebrating their 10th Anniversary and in the past 10 years Black Gold has provided youth services to approximately 1,000 youth in the community. The young performers have represented Tulsa in over 50 cities throughout the United States in performances and competitions. Charity Bingo is the only source of continuous revenue for Black Gold and it is a must to continue in order to survive. Mr. Mueggenborg stated that the organization is in good standing with the Able Commission, which governs charity Bingo operations.

Mr. Dunham asked Mr. Mueggenborg what hours the Bingo operation is opened? He stated that the Bingo operation is evening sessions, four (4) evenings per week, Tuesday, Thursday, Friday and Saturday, 5:00 p.m. to 12:00 p.m. He commented that the organization advertises a 7:30 p.m. starting time and usually ends at 10:30 p.m. with special games before and after the event.

In response to Mr. Bolzle, Mr. Mueggenborg stated that there are no alcohol beverages allowed in the Bingo hall. He explained that the subject site will also be used for rehearsal and the corporate office will be housed there as well.

In response to Mr. Bolzle, Mr. Jackere stated that the Bingo operation cannot be commercial under the Able Commission.

Mr. Mueggenborg explained that the Able Commission regulates the days and hours of operation. The Able Commission allows two (2) sessions per day, six (6) days a week. The organization has to designate which session they would like to operate before approval. He stated that the organization will request the evening sessions.

Case No. 17759 (continued)

Mr. Bolzle requested the applicant to restate his days and hours of operation? Mr. Mueggenborg stated the days will be Tuesday, Wednesday, Friday and Saturday, 5:00 p.m. to 12:00 p.m.

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 **APPROVE** a **Special Exception** to allow Use Unit 19, Bingo Facility, in an IL zoned district. This property is located: 4588 N. Mingo. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 19; per plan submitted; subject to the final approval of the IL zoning by the City Council; 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:

The NE/4, NE/4, NE/4, LESS the W 189' of N 418 2/3' thereof and LESS a tract described as Beg. SE/c of said NE/4, NE/4, NE/4, thence W for 40', thence N for 606.7', thence N 45°00' W for 31.6', thence W for 72.6', thence N 30'; thence E 135', thence S along the E line for 659.1' to POB, Sec. 13, T-20-N, R-13-E, I.B.M., Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17760

Action Requested:

Appeal the decision of the Sign Inspector that neon zigzag and neon rays are part of the sign for the purpose of calculating display surface area and a Variance of total wall signage as follows: E wall from 192 SF to 499 SF; N wall from 312 SF to 738 SF; W wall from 192 SF to 435 SF. **SECTION 1221.E.2. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**, located 7418 East Admiral Place.

Mr. White informed the Board that Mr. Bolzle will be abstaining from Case No. 17760

Presentation:

The applicant, **Bob Hays/Oklahoma Neon**, was not present.

Protestants:

Several protestants in attendance.

Case No. 17760 (continued)

Comments and Questions:

Mr. Jackere informed the Board that they could act on the application without the applicant being present. He stated the Board could deny the application, because the Board would not be denying the application on any substantive issues, rather deny it for failure to appear. The applicant will have the opportunity to re-apply and notices will be sent out to the interested parties.

Mr. Beach informed the Board that the applicant has not advertised properly for an appeal, however he is advertised correctly for the variance requested. The applicant has asked the Board for an interpretation of the definition of a sign.

Mr. Jackere stated that the Board cannot make an interpretation, unless it is in an appeal. In this particular case the applicant does not have an appeal pending.

Mr. Gardner informed the Board that if they denied the application without prejudice, than the applicant can re-file for a variance.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-1 (Cooper, Dunham, Turnbo, White, "aye"; no "nays" Bolzle "abstention"; none "absent") to **DENY** the **Variance** of total wall signage as follows: E wall from 192 SF to 499 SF; N wall from 312 SF to 738 SF; W wall from 192 SF to 435 SF. **SECTION 1221.E.2. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**; finding that the applicant did not advertise correctly for an Appeal and that the applicant was not present for the hearing; on the following described property:

Lots 1 & 2, Block 3, Tommy Lee Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17761

Action Requested:

Special Exception to permit a lodge in an RM-1 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 5903 East 9th Street.

Presentation:

The applicant, **Charles P. Davis/ Saba Grotto**, represented by **Robert E. Howard**, 1500 Nations Bank Center, 15 West 6th Street, submitted a plat of survey (Exhibit E-1), zoning notice (Exhibit E-2) and literature regarding the organization (Exhibit E-4). Mr. Howard stated that the Saba Grotto helps with free dental work for handicapped children. This is the charity that Saba Grotto has undertaken as an organization and in order to offer the free dental care the club has to raise funds. The Saba Grotto organization started a Bingo operation through the Able Commission with a permit to operate on Saturday for four (4) hours in the evening. He explained that the lodge building has been used for over 40 years, but they recently moved the Bingo operation to the lodge. He requested the Board to approve the special exception to allow use of the lodge to conduct Bingo on Saturday evenings.

Comments and Questions:

Mr. Dunham asked the applicant to elaborate more with regard to the lodge and the Bingo operation? Mr. Howard stated that there are various meetings and activities that take place in the lodge. He explained that the organization meets approximately four (4) Wednesdays a month and two (2) Fridays a month. The lodge holds dances and other fraternal activities throughout the month. The Bingo operation is held only on Saturday evenings for four (4) hours, 6:00 p.m. to 10:00 p.m., which is restricted by the Able Commission. He explained that any changes in the hours and days will have to be approved by the Able Commission through application.

Mr. White asked the applicant if the organization has other fund raising activities that are conducted at the lodge? **Chuck Davis**, Treasurer of Saba Grotto, 1223 South 103rd East Avenue, stated that the organization does not have any other fund raisers other than Bingo on Saturday at this time. He explained that since 1949 the organization has been actively supporting cerebral palsy research and dentistry for the handicapped.

Mr. Dunham asked the applicant how long the Bingo operation has been conducted at the subject location? Mr. Davis stated that when the organization purchased the subject property in 1993, they were told that they had a special exception to allow a Bingo operation. He explained that the organization did not know that they were violating any ordinances. He stated that the organization has been playing Bingo at the subject property for two (2) years now.

Ms. Turnbo asked the applicant if the organization has luncheons, dinners, etc. during the month in the lodge? He answered affirmatively.

Mr. Cooper asked the applicant what the average attendance to the Bingo sessions are, Mr. Davis stated that the attendance runs usually between 70 and 80 people.

Case No. 17761 (continued)

Mr. Davis explained that when they have dinners and meetings, there are usually more people in attendance than the Bingo games.

Mr. Bolzle asked Mr. Davis how late the dinners last and meetings last? He stated that usually by 10:30 the dinners and meetings end.

Mr. Bolzle asked the staff what the least intensive zoning that would allow a Bingo use if it were not an accessory use? Mr. Beach stated that OMH would be the first zoning category that would allow a Bingo operation by exception and CS by right.

Mr. Beach read the definition of accessory use to the Board from the Zoning Code Book.

Mr. Cooper asked Mr. Davis if any of the neighbors to the subject property have ever complained of noise filtering out from the lodge associated with the Bingo operation? He stated that there have been no complaints of noise and there is no noise outside of the building. He described the subject property as a concrete block building and it does not have any windows.

Protestants:

The Board received a letter of protest (Exhibit E-3).

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 **Special Exception** to permit a lodge in an RM-1 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted; and it is the Board's finding that the charitable bingo, once a week on Saturday evening, no later than 11:00 p.m. is a use accessory to the lodge; 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 8, less N 63.1' & all Lots 9-11, and S 26' of Lot 12, Block 5, Glenhaven and Glenhaven Amended Resubdivision, an Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17762

Action Requested:

Variance of the required screening fence between an IL & R zoned district (R district is an expressway). **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located NW/c of East 50th & Mingo Expressway.

Presentation:

The applicant, **Ronald Hendrix**, 10323 East 50th, submitted a site plan (Exhibit F-1) and a letter of support (Exhibit F-2). Mr. Hendrix stated that he wanted to remove the privacy fence that is currently in place because the expressway is approximately 40' taller than privacy fence.

Comments and Questions:

Mr. Beach informed the Board that the application can be handled as a special exception rather than a variance.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** a Special Exception of the required screening fence between an IL & R zoned district (R district is an expressway). **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; finding that the R zoned district abuts the Mingo Valley Expressway; 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 1-12 and 21-24, Block 44, Lots 1-4, Block 45, Alsuma, an addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17764

Action Requested:

Special Exception to allow a restaurant and motel in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12 & 19, located 531 North Sheridan Avenue.

Presentation:

The applicant, **Patel Construction**, represented by Dick Zoutendyk, 2121 South 125th East Avenue, submitted a site plan (Exhibit G-1) and requested a special exception to allow a motel and restaurant on the subject location.

Case No. 17764 (continued)

Comments and Questions:

Mr. Dunham asked the applicant if he planned to screen on the east property line? He stated that he plans to install screening on the east and north property lines.

Protestants:

Ray Johnson, 6716 East Haskell Street, stated he is a retired general contractor and he lives four (4) houses to the east of the subject property. Mr. Johnson expressed concerns with the storm sewer system. He explained that the Quik-Trip recently opened has brought in fill for the back of the store and now there is a 10' drop off at the back of the property. He stated that all of the runoff water is going to the east on Easton and is curb high when it rains. Mr. Johnson commented that the storm water sewer system can not handle the runoff and it runs north onto North 68th East Avenue. He requested that a storm water permit not be permitted until a storm water study is completed. He explained that if the proposed development goes in with the same elevation as Quik Trip, then by the time the east end of the property is developed it will be 15' high and there are homes behind the development.

George Masters, 6712 South Haskell Street, stated that he is not protesting, but he would like to know how big the construction will be and if the restaurant will be a part of the motel? He expressed the same concerns as Mr. Johnson with regard to the storm water drainage.

The Board gave Mr. Masters a copy of the site plan to review.

Applicant's Rebuttal:

Mr. Zoutendyk stated that he is proposing to develop a 60 room motel on the subject site with a franchise restaurant. He explained that the restaurant has not been decided on at this point. He stated that he does not intend to raise the land to the same level as Quik Trip, which is quite steep. The storm water issues will be studied by the engineering department and if there are problems they will be addressed.

Comments and Questions:

Mr. Gardner asked the applicant if he planned to access Haskell Avenue or only the service road? He stated that they would be using the service road only.

Mr. White asked the applicant if he has met with the neighborhood or representative of the neighborhood associations? He stated he had not met with the neighbors, but he would be happy to meet with the neighbors at anytime to discuss the proposal.

Case No. 17764 (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 **APPROVE** a **Special Exception** to allow a restaurant and motel in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 12 & 19; per plan submitted; subject to there being no access from the site via the Haskell stub street on the east; subject to approval of the storm water drainage plan submitted to the storm water management or development services; subject to Traffic Engineering approve all of the ingress/egress points and subject to there being screening on the east property line; 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 12, less W 5' to the City of Tulsa, Polston Sec. Subdivision, and Lot 13, less W 5' to the City of Tulsa, Polston Second Subdivision, and Lot 14, less HWY beg. SW/c, thence E 17', N 43', W 17', S 43.2' to Beg., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17765

Action Requested:

Special Exception to permit a public school in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2, located NE of North 41st West Avenue & West Edison.

Presentation:

The applicant, **W. Maurice Clyma/Tulsa Public Schools**, 610 South Main, Suite 200, submitted a site plan (Exhibit I-1). Mr. Clyma stated the subject school has been in existence for approximately 30 years and the proposal is a small library addition (1600 SF). The library addition will replace the library that is located in the cafeteria. The school is not increasing classroom space other then part of the library will be used for computer classrooms. Mr. Clyma stated that the school never applied for a special exception to operate as a school in the AG district. He requested a special exception for the entire school to be allowed in the AG district.

Protestants: None.

Case No. 17765 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "ave"; no "nays" no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a public school in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2; 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:

E 660', W 1320', N 660', S 1320', Sec. 33, T-20-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17766

Action Requested:

Special Exception to allow a duplex in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 7, located 1332 East 35th Street South.

Presentation:

The applicant, **Jacob G. Braun, IV/Rusty Patton**, represented by **Pat Fox**, submitted a site plan (Exhibit J-1) and stated that his client proposes to build a duplex dwelling at 1332 East 35th Street. Mr. Fox indicated that the subject property is immediately to the east of the Consortium Shopping Center. Mr. Fox submitted various photographs of the subject property and the surrounding property (Exhibit J-2). He indicated that the existing property has 100' of frontage and is 140' deep. There is total of 14,000 SF of lot area for the duplex, which is in excess of the required area under the Code. The proposed project consists of a duplex dwelling that is divided into two halves. One side of the duplex will have approximately 3,000 SF, which will be owner occupied by Mr. Patton. Mr. Fox explained that the other side of the duplex will be 1800 SF and will be leased by Mr. Patton. The property is oriented toward 35th Street and it also provides for off-street parking in a detached garage, which will accommodate five (5) vehicles. The garage is proposed to be in the rear of the property with a single driveway in effort to be consistent with the residences developed in the neighborhood. The property immediately to the east is a residence that received approval for a bed and breakfast. He indicated that the property to the west has a real estate office and a professional office complex. The remaining properties on the north side of the block are four single-family houses situated on 50' lots. The plan is developed consistent with all of the bulk and area requirements of RS-3 and all setbacks. The property was developed with its private outdoor space as internal court yards. Mr. Fox stated that the owner feels that this proposal is an appropriate use of the subject property, which abuts a major commercial development. He commented that the planned proposal provides a reasonable transition from a very intensely developed commercial street (Peoria) into a single-family neighborhood.

Protestants:

Nancy Apgar, 3914 South Norfolk, representing the Brookside Neighborhood Association, stated that the neighborhood does not want a duplex on the subject property. She described the neighborhood as a neighborhood with single-family homes. She expressed concerns that the duplex could be turned into a business and encroach into the neighborhood. There are no duplexes in the surrounding area and the neighbors do not want duplexes developed in the area.

Maxine Calico, 1339 East 35th Street, stated she lives directly north of the proposed duplex. She expressed concerns with traffic problems on the neighborhood streets. Ms. Calico stated that this will set a precedence and fears that more duplexes will move into the area if the application is approved.

Steve Schuller, 320 South Boston, Suite 1024, representing Karen Keith & Pat Malloy, stated that his clients live at the property adjacent to the east. Mr. Schuller informed the Board that his clients object to the grant of this special exception for duplex use because the neighborhood is a predominately single-family neighborhood. He stated the neighborhood is in a revitalization of the family character with significant new construction, rehabilitation of existing houses in the neighborhood. There is a line between the commercial uses along Peoria Avenue and the subject residential neighborhood to the east. The Planning Commission has consistently denied zoning for commercial uses east of the line. The line is the boundary between the western property line of the subject property and the commercial uses to the west. Mr. Schuller commented that the structure proposed by the applicant appears to be a residential duplex and is intended to be a residential duplex, but by virtue of its design it could be converted to office use. The structure is positioned very close to the street, there is an extraordinary amount of parking in the rear of the property, as might be characteristic of an office building. There is also a substantial amount of stone coverage of the land as opposed to grass, which is generally characteristic of office and commercial uses. There is a proposal to cul-de-sac some of the streets in this subject area to separate the traffic from the commercial area and the residential area. The cul-de-sac proposal is in order to reduce the traffic problem that the residential area encounters by the commercial traffic going through their residential neighborhood. Mr. Schuller indicated that he has discussed this application with the applicant and the applicant has expressed his opposition to the cul-de-sac proposal which indicates his intentions to convert the subject property to some type of office or commercial use. The special exception that has been requested will be injurious to the neighborhood and he request that the Board deny this application.

Applicant's Rebuttal:

Mr. Fox stated that a conspiracy theory that does not exist has been presented as a reason to deny this application. The intent of his client is to live in the duplex dwelling, which is two single-family dwellings that happen to have a common wall. The choice of the duplex dwelling was in order to make the economics work in a situation which it is marginal at best for residential purposes. The intent of the exception use under the Zoning Code for duplexes to be allowed within an RS-3 district is exactly intended to fit this type of property, which is somewhat embarrassed by the commercial uses that exist to the east. There is no intent by the client to develop anything other than a residential project which includes two single-family dwelling units that happen to have a common wall. Mr. Schuller also represents the neighbor to the east, which operates a bed and breakfast that was approved by the City. He commented that he thought this was contradictory. The people who own the bed and breakfast were very amenable to this project until the issue of closing the street came up. Mr. Fox stated that the primary concern of his client that the proposal to close the street also preclude pedestrian access. He commented that part of the reason his client would like to live adjacent to Peoria is the ability to walk to various types of activities and develop a lifestyle which is consistent with living adjacent to a very intense piece of ground. He stated that the use is consistent with the subject area.

Interested Parties:

Rusty Patton, 1008 East 67th, stated that the proposal is a residential project. He expressed concerns with Mr. Schuller's comments with regard to the street closing issue. Mr. Patton reminded the Board that the street closing issue is not before the Board today and should not have any basis on making a decision whether to grant the special exception. He requested the Board to approve his application.

Comments and Questions:

Mr. Cooper stated that he lives on the subject street and agrees with the protestant with regard to the traffic problems in the subject area. He commented that given the parking that the duplex has proposed will exacerbate the traffic problem. There are probably several other duplexes in the area and the argument that this is not consistent with the neighborhood is not valid. Where this proposed residence is located would be a natural buffer from retail. The comment that the subject request will increase density in the area when the two units on the 100' wide lot is the same as one dwelling on the 50' wide lots across the street. This would be a good development for the neighborhood.

Mr. Bolzle asked the staff if it is possible to have a residential office use on one side of the duplex and an residence on the other side? Staff answered negatively.

Case No. 17766 (continued)

In response to Mr. Bolzle, Mr. Fox stated his client can have a computer in his home under the ordinance as can everyone else. He commented that there are certain rights that are granted as a matter of right and there are other rights that if his client wanted to modify, he would have to come before the Board.

Mr. Bolzle stated that the proposed application is not increasing the density of use and so it will be no more intense than a single family home occupation on a separate lot.

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 **APPROVE** a **Special Exception** to allow a duplex in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 7; 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:

Olivers Addition, Lot 7, Block 3, City of Tulsa, Tulsa County, Oklahoma.

Mr. Cooper out at 2:45 p.m.

Case No. 17767

Action Requested:

Special Exception to amend a previously approved site plan. **SECTION 1215.B.3. USE UNIT 15. OTHER TRADES AND SERVICES**, located 8246 East 73rd Street.

Presentation:

The applicant, **Margaret Petty**, represented by **Tom Williams**, 2201 West Memphis Street, Broken Arrow, 74012, submitted a revised site plan (Exhibit K-1) and stated that he would like to have a revised site plan approved that allows a driveway to the west side of the building. He explained that the driveway connects the concrete parking lots in the front and backside of the building.

Comments and Questions:

Mr. Gardner asked the applicant if the proposal will undo the mutual access that was agreed upon previously? **Mr. Williams** stated that what was to be grass, running from the front parking lot to the rear parking lot is now a concrete mutual driveway.

Case No. 17767 (continued)

Protestants:

Daniel Hughes, 3618 South Braden Place, stated he represents the company that owns the building directly to the east of the subject property. He requested information for the landscaping plans on the west side?

Applicant's Rebuttal:

Mr. Williams stated that there is a revised landscaping plan submitted, but it will go before the Planning Commission for approval.

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 **Special Exception** to amend a previously approved site plan. **SECTION 1215.B.3. USE UNIT 15. OTHER TRADES AND SERVICES**; per amended site plan; subject to the Planning Commissions approval; 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 4, Block 1, Randall Plaza Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17768

Action Requested:

Special Exception to amend a previously approved site plan to permit a removable bubble-type cover over three tennis courts and the addition of a driveway access to 76th E. Avenue, located 7500 East 61st Street.

Presentation:

The applicant, **Stephen A. Schuller**, 320 South Boston, Suite 1024, submitted a site plan (Exhibit L-1) and stated that the original site plan was approved approximately 20 years ago. He explained that there is a club house that faces 61st Street behind the parking lot. There are sets of two or three tennis courts behind the club house and there is a trio of tennis courts that the club proposes to erect a canvas bubble over the courts for use during the winter months. He explained that the bubble would be removed when the weather turns nice again at the end of the six months. Mr. Schuller stated that the original site plan provided an access only to 61st Street, however there is a street to the east of the property that is designated 76th East Avenue that abuts the property and by law the property would have access to the street. He proposes to amend the site plan to permit a driveway access to 76th East Avenue.

Case No. 17768 (continued)

Comments and Questions:

Mr. White asked the applicant if the City Traffic Engineer has looked at this proposal? Mr. Schuller stated he did not think that the City has seen this proposal yet, but they would submit the plans for a curb cut before any permit could be issued.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Tumbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to amend a previously approved site plan to permit a removable bubble-type cover over three tennis courts and the addition of a driveway access to 76th E. Avenue; per plan submitted; subject to the review and approval of Traffic Engineering; 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:

All of Block 1, Shadow Mountain Racquet Club, a subdivision of Part of the NE/4, Sec. 2, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17769

Action Requested:

Variance to permit a detached accessory building (carport) in the front yard. **SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2409 South Oswego Avenue.

Presentation:

The applicant, **Sarah Passmore**, 2409 South Oswego Avenue, submitted a site plan (Exhibit M-1) and an architectural drawing (Exhibit M-2). Ms. Passmore stated that she would like to build a carport on the side of the subject lot. She explained that it is not possible to erect the carport in the back yard because the subject lot is a triangular shaped lot. She stated the subject lot is extremely wide in the front and narrow in the back, however all of the other properties in the subject neighborhood are rectangular. Ms. Passmore submitted a list of carports in the subject area (Exhibit M-3). She stated the carport will be designed to match the existing home and it will not be out of character for the neighborhood.

Comments and Questions:

Mr. Dunham stated that the carport appears to be exceeding the minimum 5' setback.

Case No. 17769 (continued)

Mr. Beach explained to the applicant that the dimensions given are not oriented correctly. The dimension should be perpendicular to the property line. In other words from the corner of the carport straight toward the property line.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** to permit a detached accessory building (carport) in the front yard. **SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that there is a hardship because of the configuration of the lot; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Lot 11, Block 2, Chandler-Frutes Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17770

Mr. White announced that he will be abstaining from Case No. 17770.

Action Requested:

Variance of the required livability space from 4000 SF to 2500 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, a Variance of maximum fence height in the required front yard from 4' to 6'. **SECTION 210.B.3. YARDS**, and a Variance to permit a structure in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**, located SE/c of East 18th Street & South Peoria.

Presentation:

The applicant, **William B. Holloway & Robert P. Johnson**, 1519 South Utica, submitted a site plan (Exhibit N-1). Mr. Holloway stated that the site plan submitted is a preliminary site plan, which depicts four (4) single-family residences in a PUD overlaying an RS-3 district. He indicated that he has been before the Planning Commission for approval subject to the Board of Adjustment granting several variances. He explained that he has been before the Tulsa Preservation Commission and received approval to demolish an old structure on the subject property. Mr. Holloway informed the Board that the proposal has been approved by the City Council subject to the Board granting the variances requested. He stated that he is asking for a livability reduction of 4000 SF to 2500 SF, but in reality there will probably be an aggregate of 3,000 SF per dwelling. In the Master Plan South Peoria is shown as

Case No. 17770 (continued)

100' right of way, but Staff recommended that this not be required since other nearby structures are actually built in the additional 20' right-of-way. He stated that the fence variance is requested in order to stay within the screening fence along Peoria, which has been approved as 6' in height. The front essentially faces north (18th Street) and it will be a 4' decorative fence. The 6' fence is needed along Peoria to provide adequate screening from Peoria traffic noise.

Comments and Questions:

Mr. Gardner informed the Board that the subject property has been a problem tract in the neighborhood. This is the first comprehensive use of the subject property that has been proposed that meets the Comprehensive Plan and harmonizes with existing development.

Mr. Bolzle read a letter of support from Linda Redwine, Secretary of the City Council (Exhibit N-2).

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-1 (Bolzle, Dunham, Turnbo, "aye"; no "nays" White "abstention"; Cooper "absent") to **APPROVE** a **Variance** of the required livability space from 4000 SF to 2500 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, a **Variance** of maximum fence height along Peoria in the required front yard from 4' to 6'. **SECTION 210.B.3. YARDS**, and a **Variance** to permit a structure in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS**; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

W 85', Lot 7, Block 25, Park Place Addition; W 50', W 150', E 215', Lot 7, Block 25, Park Place Addition; N 72.5', W 151', Lot 6, Block 25, Park Place Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17771

Action Requested:

Variance of the required 110% of height setback from abutting R districts to permit a 150' monopole antenna supporting structure. **SECTION 1204.C.3.g(1). USE UNIT 4, PUBLIC PROTECTION AND UTILITY FACILITIES**, located 6151 South Sheridan.

Presentation:

The applicant, **Lee Ann Fager/SW Bell**, represented by **Lonnie Davis**, 1516 South Boston Avenue, Suite 320, submitted a site plan (Exhibit O-1), plot plan (Exhibit O-2) and stated that the proposal is to build a structure on the site, which will accommodate five (5) wireless carriers. He reminded the Board that he can erect towers on the property that would be single use towers because of the zoning. He informed the Board that he does have a fall back contract with one of the carriers if the proposal is not completed to erect a single use tower. He stated he is requesting a special exception for the required 110% of height setback from an AG district, which is a tank farm that is owned by the City of Tulsa. He commented that the topography of the site would prevent it from being commercially viable. The reason the City included the AG district in the setback was to protect it for future residential development. He commented that this land will never be used for residential development.

Lee Ann Fager/SW Bell Wireless, 11525 East Pine, stated that SW Bell Wireless will be one of the occupants of the proposed tower. This is a setback request from an AG district rather than an R district. She indicated that the tower is 1100' from the nearest residential property line to the west and 1200' to the nearest residential home on the south. The subject property is in a commercial zoning district and the use is by right and the relief from the 110% setback is all that is needed.

Comments and Questions:

Mr. Gardner, informed the Board that the setback is from an R district and an AG district and that the City of Tulsa owns everything in the AG district, which contains large water towers and a large communication tower.

Interested Parties:

Terry Doverspike, City Council, 200 Civic Center, stated that the proposed tower is at a location that probably spear headed the tower communication issue in the City of Tulsa. Mr. Doverspike gave a history of the subject property and various applications before the Board with regard to towers. He requested the Board to pay particular attention to the basis on which the Board makes decisions and try to be consistent as much as possible with what the City Council has tried to put together as a frame work or guide line under the tower ordinance. Mr. Doverspike highlighted the purposes outlined in the ordinance and read different sections from the new tower ordinance. He informed the Board that the applicant has not indicated whether or not the 370' tower already in existence is capable of collocation. He outlined a new proposal to alter the present policy for collocation on City owned towers and property. He stated that Mayor's office is considering providing sub-licensing rights to providers who make application to existing City owned towers to allow collocation when it can technologically be done. Under the sub-licensing procedure it would not require bidding and not require to be deemed surplus property, which will allow quick response to a request by a provider and it eliminates the requirement that all providers

be given the same opportunity to any existing towers. It will be up to each provider to make their application to the City on their existing facilities. The counter balance of the new ordinance is whether multiple purpose providers on a single tower is better than several monopole towers that are less obtrusive. Unfortunately there are a combination of characteristics that makes the Board's job harder. The 370' existing tower is obviously a prominent piece to the Tulsa skyline and adding several antennas could make for an ugly structure. The Shadow Mountain residents see the 370' existing tower, but probably would not see the proposed 150' tower. Mr. Doverspike informed the Board that he is neither for or against this application because he strongly urged reduction of multiple towers in a single location in avoidance of what is called the antenna farms. Mr. Doverspike stated he agrees with Mr. Gardner's view that carriers should consider the possibility of collocating on existing water towers, tall buildings or other existing structures to carry their signals.

Protestants:

Rose Moon, 6601 East 60th Place, stated that the existing tower on the subject property is 350' in height. Ms. Moon submitted a letter of protest (Exhibit O-3) and proceeded to read the information submitted. She commented that the cellular technology and businesses have not been denied service. After a lengthy history of the subject area and previous applications Ms. Moon stated that she is in protest of this application and requested the Board to deny this application. She commented that the site plan submitted is highly exaggerated and the amount of setback from residences is not available that the applicant claims.

Richard Hasten, President of the Shadow Mountain Homeowner's Association, stated that the associations position is basically that they would like to share some of these towers with other high elevations in the City of Tulsa. He commented that the association does not want the subject property to become a tower farm.

Applicant's Rebuttal:

Lee Ann Fager stated that the City has done a poor job of allowing cellular companies on the City owned facilities. She commented that it is not her intent to insult the City or in anyway offend the City. She explained that her company did approach the City of Tulsa about locating on the 350' tower, as well as the water tanks, and was informed by Public Works and the Water Department that they are not wild about having any antennas mounted to their structures. If they open up the tanks to SW Bell Wireless then they would have to open them to other carriers. The 350' tower is already maxed out and cannot be used at the present time. Ms. Fager commented that the previous tower applications mentioned by Ms. Moon are irrelevant to this application and this application should be judged on its own merits. She stated that the application conforms to all of the outline purposes in the new tower ordinance. This tower sets back 1100' and 1200' respectfully from existing residential homes, which is five (5) times the required setback from residential areas. Ms. Fager

Case No. 17771 (continued)

commented that she understands the position of Tulsans in general concerning towers erected on all of the major hills in the Tulsa area. Unfortunately, this is a fact of life and considerable amount of people in the Tulsa area and surrounding area have cellular phones that work because of these towers.

Comments and Questions:

Mr. Bolzle asked Ms. Fager if she recalls how high the City's water tanks are, since her company did inquire about locating on the tanks? Ms. Fager stated she does not know the height, because it was some time ago and her company talked with the City in general with regard to all of the water tanks around the Tulsa.

Mr. Higgins/SW Bell Services stated that the water tanks are approximately 35' and the antennas could only extend 20' above these structures without Board approval.

Mr. Bolzle stated that this application is consistent with the kinds of applications that the Board has seen in the past, for example freeways that are zoned R district. It is my recollection that the concerns about setbacks from AG districts related to where the likelihood of residential development in the future and this is not the case here.

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 **Special Exception** of the required 110% of height setback from abutting AG district to permit a 150' monopole antenna supporting structure. **SECTION 1204.C.3.g(1). USE UNIT 4, PUBLIC PROTECTION AND UTILITY FACILITIES**; per plan submitted; subject to the tower being 150' in height, subject to the tower being constructed to support five (5) communication carriers and subject to the tower being a monopole structure; 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:

S 284.75', Lot 2, Less Beg. 44.75' N, SW/c, TH E 5', NEly 150.33', N 90', W 15', S 240', POB, Block 1, Gravatt-Tabor Center, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17772

Action Requested:

Special Exception to permit a mobile food trailer and a Special Exception to allow firewood and Christmas tree sales in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 2, located 1650 East 6th.

Presentation:

The applicant, **Don Wood**, submitted a site plan (Exhibit P-1) and stated that he has been located at the subject location for one (1) year. He explained that he is currently looking for a permanent location, however he has not been successful at this time. He requested an extension of one year at the present location or until he finds a permanent inside location.

Comments and Questions:

Mr. Dunham asked the applicant how long he would need before finding a permanent location and opening the permanent business? Mr. Wood stated he would need till the first of the year or hopefully in the next couple of months.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to permit a mobile food trailer and a Special Exception to allow firewood and Christmas tree sales in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to a period not to exceed one (1) year; 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:

E 20.5', LT F & all LT G & LT H, Less E 10.5' St. & N 6.3', W 110', E 120.5',
Lot 8, Block 4, Glass Factory Addn, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17773

Action Requested:

Special Exception to modify a previously approved site plan. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2; a Variance of the required rear yard from 40' to 15'; a Variance of the required front setback from 85' to 82' to permit an existing porte cochere. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, and a Variance to permit parking in the front yard. **SECTION 1202.C.5.b. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**; Use Conditions, located 9119 East 61st Street.

Presentation:

The applicant, **Jerry W. Ledford, Jr.**, 8209 East 63rd Place, submitted a conceptual site plan (Exhibit Q-1) and stated he is representing the Woodland Hills Church of Christ. He described the tract size as being 159' deep with 387' of frontage along 61st Street. The property is abutted by a residential subdivision to the north, condominium project to the west and a Kindercare Daycare Center to the east. In 1978 the Board approved a Special Exception to permit a church use on the subject property in an AG zoned district. Mr. Ledford stated that the hardship is the underlying AG zoning district. The AG zoning requires a 40' rear yard setback and based on the Comprehensive District 18 Plan and the surrounding uses, it is possible that the property could be rezoned to an OL use in the future. Mr. Ledford stated that one of the reasons he is before the Board is he is trying to keep the integrity of the use that is already established with this amended site plan and not go in for rezoning, which would then trigger platting. He commented that there is nothing to be gained if the subject property is platted. The tract is 1.5 acres and is below the 2.5 acre cutoff for platting. He stated that when 61st Street was widened the church dedicated the entire right-of-way in front of their property and all of the sewer and water lines are in place. This is a proposed expansion and they want to expand their parking lot in area where it will not have to be torn out in the future. The request for the porte cochere is to clean up an existing condition that is on the site so that it can remain in place.

Comments and Questions:

Mr. Bolzle asked the applicant if he could ask for a waiver of plat? He stated the property could be zoned OL and an OL zoning will allow a 10' setback in the rear yard and he is asking for a 15' setback.

Mr. Gardner stated that there is not question that the subject property could be zoned residential. If the property had been zoned residential and this Board approved the special exception, the setback is a 25' perimeter setback. What makes this unique is that AG district has 40' and that is a yard. If you look up the definition of a yard it doesn't say from a residential building it says from the rear of the building to the lot line. The Code envisions if you have a yard you have a residence and there is no residence in this case. All of these factors can be taken into consideration in reviewing this application. Mr. Gardner stated that under normal circumstances the request would be going from 25' to 15' for the rear yard setback.

Mr. Bolzle asked Mr. Ledford what the site size is in term of acreage? 1.48 acres or 61,533 SF.

Mr. Bolzle asked the applicant if the total building area proposed is 17,220 SF? He answered affirmatively.

Case No. 17773 (continued)

In response to Mr. Gardner, Mr. Ledford stated that the proposed building is one story with a 4/12 pitched roof.

Protestants:

Bob Gaviera, 9028 East 60th Street, stated he is concerned with the property value and how close the church will be to the fence. He explained that there is a drainage problem near the fence and a problem with people parking at the church in the evenings. He expressed concerns that the church's proposal is closing the neighborhood in real tight. He stated that water stands in his yard presently and he fears it will become worse.

Roberta Hinkle, 9027 East 60th Street, expressed similar concerns as Mr. Gaviera. She contends that there is not enough landscaping and the height of the church is a problem because it is not built like a ranch house. Ms. Hinkle stated that the church does block her view.

Applicant's Rebuttal:

Mr. Ledford stated that when he initially looked at this proposal, he felt that the parking all along one side of the building, which currently exists, was for a safety reasons because it is dark behind the church and too close to the fence area. He proposes to minimize the parking next to the fence as much as possible by moving the parking lots on the east side of the building. There is parallel parking against the fence area and based on the site plan proposed, there will be only three (3) parking spaces that would be next to the fence area opposed to the existing parking. Mr. Ledford stated that with regard to the drainage concerns, the subject property is flat and there haven't been any studies done as far as the new expansion. When 61st Street was widened, there were storm sewer systems installed and the conceptual plan is to take all the storm water to the existing storm sewer system that is available.

Comments and Questions:

Mr. Gardner stated that there is a provision in the Code that states if you have parking within 50' of an RS district, which the church would have on two sides of the building, they must screen fence the parking. The church will need to screen their parking lots along the north boundary.

In response to Mr. Dunham, Mr. Ledford stated that currently his conceptual plan is showing a green belt area because there is not a detailed landscaping plan at this time. He commented that the conceptual plan does propose islands in the parking area with landscaping.

Case No. 17773 (continued)

Mr. Bolzle stated he is concerned that the proposal is a self-imposed condition and the church is trying to build too much on the subject property. If Mr. Ledford rezoned to OL maybe the situation would be different. This is a mid-block location with RT and RS on either side. Mr. Bolzle commented that he cannot see what the hardship is for this application.

Mr. Gardner stated that if the subject property was zoned residential like the property to the north, that the ordinance intends to protect, the setback would be 25' which is a perimeter setback for special exception uses.

Ms. Turnbo stated she has a problem with the rear setback request and suggested the applicant come back with a better plan.

Mr. Bolzle stated that the applicant should rezone the subject property and he cannot see the hardship to grant the requested variance for the rear yard setback.

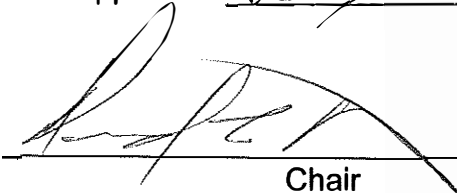
Board Action:

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 front setback from 85' to 82' to permit an existing porte cochere. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**; and continue the balance of the application to allow the applicant to re-evaluate his site plan or seek a change in the underlying zoning; finding that the requirements for a variance, as to the front setback variance, in Sec. 1607.C. has been met, on the following described property:

A tract of land beg. at a point 135' W, SE/c, SW/4, SE/4, Sec. 36, T-19-N, R-13-E, I.B.M., according to the US Government Survey thereof; thence N 209', W 387', S 209', E 387' to POB, Less S 50' thereof for right-of-way, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:15 p.m.

Date approved: JULY 22, 1997


Chair

