

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 732
Tuesday, August 12, 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

Beach
Huntsinger
Stump

Ballentine, Code
Enforcement
Parnell, Code
Enforcement
Romig, Legal
Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, August 8, 1997, at 2:58 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; none "absent") to **APPROVE** the minutes of July 22, 1997, (No. 731).

UNFINISHED BUSINESS

Case No. 17751

Action Requested:

Appeal from decision of Code Enforcement Officer. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**; or in the Alternative: Special Exception to permit fence/wall improvements exceeding height limitations. **SECTION 210.B.3. YARDS**; and a Variance of setbacks. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** or **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 2140 East 30th Street.

Presentation:

The applicant, **John M. Freese and Roy D. Johnsen**, 201 West 5th, Suite 440, submitted a site plan (Exhibit A-1) and photographs (Exhibit A-4). Mr. Johnsen stated that he is representing the applicants, Rama & Lalitha Palepu. He informed the Chair that there is a fence encroachment and it may be relevant to a past survey performed. He further informed the Chair that he has a survey that was performed by a survey company with which the Chair is affiliated, however he is not asking the Chair to abstain unless he chooses to do so. (Mr. White abstained from Case No. 17751). Mr. Johnsen stated he is seeking two (2) types of relief, a special exception as to wall height and a variance of the structure setback from the streets. Currently there are walls and fences encroaching the right-of-way. He indicated that in 1993 his clients decided to enclose their yard and developed a plan that was approved by the Board. Mr. Johnsen explained that Ms. Palepu became very ill and decided to hold off building the fence. He indicated that the Palepu's are of the Hindu religion and after seeking medical care from the conventional doctors with no results, his clients then sought the advice of spiritual advisers from India. His clients were advised by the spiritual advisers to change the grades of their property and they needed to make numerous changes, which did not agree with the approved site plan that was previously approved. He assured the Board that his clients did not attempt to modify the original plan but abandoned the original plan to develop an entirely new plan. Mr. Johnsen gave a lengthy explanation regarding the advice his clients received from their spiritual adviser and the reasons for changing to a new plan. He reassured the Board that his client never intended to do anything in violation of the Zoning Code or the Building Codes. His client assumed that the construction company would obtain the necessary zoning approvals and permits, which the construction company has done in the past. Mr. Johnsen stated that the construction company has done several projects in the past for his client and had always handle obtaining zoning clearances and permits. Mr. Johnsen explained that his client felt compelled for religious reasons to alter the grades of his lot and follow certain precepts on how fencing must be constructed. Mr. Johnsen continued to explain that the front planter, (30th Street), was believed to be located approximately at the 25' line from the centerline of 30th Street. He has recently learned that the right-of-way on 30th Street is 60' instead of 50', which puts the planter 5' into the right-of-way. It was after the Board of Adjustment approved the site plan that it was brought to their attention that the centerline from 30th Street is actually 60'. Construction commenced in 1995 with the new plan of Mr. Palepu's, which was based on religious beliefs. He explained that the panels, which go to the corner along the northeast corner of the property, were intended to screen the outdoor swimming pool. The panels obstructed traffic visibility at the corner and this raised concerns with the property owners. He indicated that his client received a shut down order and has removed the panels that obstructed the traffic visibility. He indicated that the two (2) owners abutting the south property (Tyler's and a bank) have no objection to the proposed plan. Mr. Johnsen gave a

Case No. 17751 (continued)

lengthy explanation of why and how the walls have been constructed. He stated that when the neighbors starting complaining about the fence, Mr. Palepu contacted his attorney Mr. Freese, as well as an architect and held conferences with the Traffic Engineer. The plans that were actually used were taken to the neighbor to the west and it was his client's understanding that the neighbor was not objecting to the wall, however it did not show how close the wall would be to the street. Mr. Johnsen stated that the alternative plan was shown to Mr. Hardesty (neighbor to the north) and he does have some objections to the proposal. He informed the Board that he recently met with Mr. Hardesty and his attorney, Mr. Schuller, and after the meeting he now has two proposals. Mr. Johnsen assured the Board that his client will meet Traffic Engineering requirements and corner visibility will not be an issue. He stated that his client prefers to remove the wrought iron from the 30th Street right-of-way area with the exception of bringing the wrought iron around the outdoor pool area, in order to secure the pool, and extending it southwesterly to the northeastern most corner of the house. The result of that would be to enclose the pool, but greatly open up the front. The removal of the wrought iron will continue to the east so that there will be no wrought iron along 30th Street. Additionally, the wrought iron will be reduced by 3' on Zunis and it will tie into where the pool will be enclosed. Mr. Johnsen commented that the stone wall is basically at a uniform elevation. He stated that on the side yard, (Zunis), his client can have by right a wall that is 8' and the same is true on the south of his client's property. He requested that the Board allow the fence along 30th to be modified in its height. Mr. Johnsen stated that the hardship is that there is a 60' right-of-way, which the City has constructed 26' of paving and normally in a 60' right-of-way you would have 36' of paving, both of which gives you 12' behind the curb to the property line. He explained that when the fence was erected along 30th Street the survey was in error and that is why it encroaches the right-of-way. This is a situation where there are no known plans to widen 30th Street and therefore, the fence being in the right-of-way will not create a problem. He suggested that if the Board approves the encroachment on 30th Street, that the Board condition it subject to securing a license agreement with the City.

Comments and Questions:

Mr. Bolzle asked Mr. Johnsen if the proposals that he is making for the purposes of the special exception and the variance are the plans and drawings found behind tabs 7 & 8 of the submitted site plan? Mr. Johnsen answered affirmatively.

Mr. Bolzle asked Mr. Johnsen if all of the wrought iron that fronts the 30th Street frontage is removed and all that remains along 30th Street is the retaining wall that begins small and ends large in the north west end? He answered affirmatively.

Mr. Bolzle asked Mr. Johnsen if he wished to make an argument regarding the appeal? Mr. Johnsen stated that he now has good survey facts and he does not think he could argue for the appeal.

Case No. 17751 (continued)

Mr. Bolzle asked Mr. Schuller if he had any concerns with the Board acting on the appeal at this time and confining further comments to the variance and special exception? Mr. Schuller stated he consents to the Board acting on the appeal by denying the appeal and than hearing the variance and special exception request.

Mr. Johnsen stated that he does not want to withdraw the appeal for the purpose of the record, but he has no objection to the Board acting on the appeal.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-1 (Bolzle, Cooper, Dunham, Turnbo, aye"; no "nays" White "abstention"; none "absent") to **DENY Appeal** and **UPHOLD** the decision of Code Enforcement Officer. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**; on the following described property:

Lots 1 & 2, Block 15, Forest Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

Protestants:

Steve Schuller, 320 South Boston, submitted letters of protest (Exhibit A-2) and photographs (Exhibit A-5). Mr. Schuller stated he represents eight (8) neighboring properties to the applicant. He commented that the original plan that was approved four (4) years ago has been ignored. The applicant ignored the approved site plan and the fence now encroaches 5' within the street right-of-way along the entire front of the property. Tuttle & Associates Engineering Firm measured the fence and determined that the wrought iron portion of the fence, which is on top of the wall is 6.5' (Exhibit A-3). The fence is setting on a stone and concrete wall and the wall is as much as 7.5' in height. With the masonry wall and wrought iron fencing on top, at some points the wall is at 14' to 15'. Mr. Schuller discussed each of the photographs and compared the different heights of the fence. He stated that the fence is out of scale for the neighborhood and all of the other fences in the neighborhood meet the requirements. The lots in the neighborhood are large lots and there is no need to encroach into the right-of-way. Mr. Schuller stated that the neighbors fences all stair step with the contour of the land and maintain a consistent height above grade. He commented that the current fence and wall structure, as constructed and the proposed modifications, are not in harmony with the spirit and intent of the Code. He reiterated that the fence is in violation of the Zoning Code and is not what the Board approved four (4) years ago. Mr. Schuller commented that the constructed fence looks like a fortress that towers over the neighborhood. There is nothing unique to the subject property that would qualify as a hardship and that the only hardship would appear to be the cost of complying with the Zoning Code, which is merely a financial hardship and is self inflicted. Mr. Schuller informed the Board that the original contractor left the job when he was asked to build a fence that was not in compliance with the Zoning Code and this Board's order. Mr. Schuller stated that the fence will cause substantial

Case No. 17751 (continued)

detriment to the public good and obviously impair the spirit and intent of the Zoning Code by its violation of the key provisions of setbacks, height limitations, etc. He requested the Board to deny this application.

Comments and Questions:

Mr. Bolzle asked Mr. Schuller if it is his opinion that the variance or modification of the height requires a hardship? Mr. Schuller stated that if it is a variance then it would require a hardship, however, the Board has the right to grant a special exception modifying the height only if it meets the requirements of the Zoning Code.

Mr. Bolzle explained to Mr. Schuller that what is before the Board is a special exception to modify the height.

Applicant's Rebuttal:

Mr. Johnsen stated that there are other fences in the subject area that are within the right-of-way. Mr. Johnsen referred to the photographs he submitted. He clarified that on the special exception issue the Board does have the authority to grant height modifications without requiring a hardship finding. He reiterated that it was not his client's intent to undermine the Board's authority, but rather to abandon the previous plan with the assumption that the proper permits would be obtained by the construction company. He stated that with regard to the special exception that there are significant grade changes and it is not uncommon for a homeowner to level their lots and build retaining walls. He explained that there is nothing in the Code that prohibits changing the grade of a lot. There is nothing in the Code that requires a homeowner to stair-step their fences. He explained that there are fences in the subject area that are uniform. He stated that on Zunis an 8' wall is permitted at the southeast corner. The wall itself is under 8' and there is wrought iron on top, which will be reduced by 3'. He commented that there is a difference between solid walls and wrought iron when considering heights. He stated that the architect convinced him that some wrought iron on top would be more attractive than none at all. Mr. Johnsen stated that he felt the criteria for the special exception has been met. He commented that the northwest corner is very attractive with a rock front and it is not uncommon to see this type of wall along the street. He informed the Board that the neighboring property owned by the Barclays has sold with the wall in place. He stated that with regard to the variance for the setback, the hardship is that the right-of-way is 60' and the City has no intention of building more than 26' of surfacing. In this neighborhood most of the streets are in fact 50' right-of-ways with 26' of paving. The Board approved fencing previously with the planter pre-existing in the right-of-way. He expressed the opinion that the planter pre-existing in the right-of-way and the 26' paving creates unusual circumstances. He proposed to take the wrought iron fencing off of the north wall, encircle the pool and lower the wrought iron on the Zunis side.

Comments and Questions:

There was discussion of the differences between a retaining wall and a fence.

After lengthy discussion, Mr. Bolzle stated that the previous application is gone and there is a new case before the Board. The fact that the conditions are existing should not prejudice the Board's decision. This is to be viewed as if there is no construction in place. The Board is being asked to modify the height, which requires a special exception. It cannot be injurious to the neighborhood and has to be in keeping with the spirit and intent of the Code. The setback variance requires a hardship and there may be other ways to achieve this than getting approval of this Board. A vacation of the right-of-way may be a way to acquire this.

Mr. Stump stated that it is his understanding of the applicant's figures that at one point it is 7'-6" into the right-of-way, which even if the City vacated 5' there would still be an encroachment.

Mr. Bolzle stated that the issue is that a stone retaining wall was built with its highest point approximately 7' above the grade. The Building Code may require that there be some protection fence a top the 7' retaining wall.

Mr. Cooper asked the Board if the planter appeared to be actually a 6" wall? Ms. Turnbo stated the planter becomes a wall the further west it extends.

Mr. Dunham stated that it appears to him that most of the problems are self inflicted by changing the grade, which is in violation of the Code. Now the applicant is seeking relief for the violations. He further stated that if the applicant came in with a plan for the existing construction the Board would have a hard time approving the plan.

After a lengthy discussion it was decided that it is not the Board's function to redesign the applicant's fence to meet the Code.

Board Action:

On **MOTION** of **COOPER**, to **APPROVE** a **Special Exception** to permit fence/wall improvements exceeding height limitations. **SECTION 210.B.3. YARDS**; and a **Variance** of setbacks. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** or **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; subject to being no closer than 25' to the centerline of the road, any wall that is closer to the street than 30' to the centerline can be no taller than 1' above existing grade.

Case No. 17751 (continued)

There being no second the motion failed.

Comments and Questions:

Mr. Bolzle asked the Board if it is the sense of the Board that the existing stone wall along 30th Street is acceptable in its existing location? Extending a foot or less at one point to 6.2' at the westerly point? Ms. Turnbo stated that the wall does not bother her until it gets down to where the wall is too large. She commented that where the wall is only 1' or 2' with no fence on top is not offensive, but when you get to the Barkley's property the wall is too offensive.

Board Action:

On **MOTION** of **COOPER**, the Board voted 4-0-1 (Bolzle, Cooper, Dunham, Turnbo, "aye"; no "nays" White "abstention"; none "absent") to **DENY** a **Special Exception** to permit fence/wall improvements exceeding height limitations. **SECTION 210.B.3. YARDS**; and a **Variance** of setbacks. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** or **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Lots 1 & 2, Block 15, Forest Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17779

Action Requested:

Special Exception to permit accessory car wash for Uniform South Police Sub-station. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located 75th & South Riverside Drive.

Presentation:

The applicant, **J.D. Turner**, City of Tulsa, 2317 South Jackson, submitted a site plan (Exhibit B-1) and stated that he has done some research on the sound reduction and the proposed car wash will not have an air-dry cycle installed. He stated that the car wash will have a roller type to dry the cars, which is quieter than the air-dry cycle. He indicated that he met with two of the local residents, Mike Lemley and Mickey Blackwell. Mr. Turner stated he updated the site plan to show possible alternate car wash locations. He explained that there are problems with drainage and underground fuel tanks on the subject property, which makes alternate locations difficult. He indicated that the neighbors did not like one of the alternate sites because it would be visible from the street.

Comments and Questions:

Mr. White asked Mr. Turner if there will be a vacuum sweeper installed with the car wash? Mr. Turner informed the Board that there is a vacuum sweeper already installed.

Protestants:

Wayne Driggers, 7504 South St. Louis, stated that he is in opposition to any further construction or development on the subject property. He informed the Board that when the first original site plan was offered, the neighbors were assured that there would be no noise and it would fit into the residential area. He explained that the developer promised landscaping to keep the noise down. Mr. Driggers informed the Board that he is a Landscaping Horticulturist and by planting a few Russian Olive Trees, this will not keep the noise level down. He stated he understands that the officers need to wash their cars, but they should wash their cars at another location. He informed the Board that he has complained many times with regard to helicopters landing on the subject property and sirens going off at 11:00 p.m. Mr. Driggers stated that he can hear conversations between the officers at night when they are out by the gas tanks and fears the car wash will create too much noise.

Comments and Questions:

Mr. White asked Mr. Driggers if he has talked with Mr. Lemley (President Homeowner's Association) or Mr. Turner? Mr. Driggers stated that he had talked with both of the gentlemen. He informed the Board that Mr. Lemley does not live close by the subject area. Mr. Driggers stated that the original plan for the precinct was to fit into the neighborhood and it would be more like a park setting. There were promises of more landscaping that never developed. He stated that the subject property was supposed to be a low impact area. The precinct is in a residential area and it needs to remain a residential area. He informed the Board that he viewed the north site where there is a car wash installed, however, the north site is in an industrial commercial type area. He concluded that there is no reason for the Police Department to place a car wash in his back yard.

Interested Parties:

Major Bill Wells, Tulsa Police Department, 600 Civic Center, stated he was the Commander at the Uniform Division Southwest at one time. He explained that the closest car wash for the Officers to use is at 21st and Jackson. He stated that it is difficult for the Officers to wash their cars and stay in the southern part of Tulsa. He further stated that he understands the resident's concern with regard to the noise level. Commander Wells informed the Board that the subject site is a partnership with the residents and everything that was promised should be done. He stated that there should be a way to install the car wash and keep the car wash from being a problem.

Protestants:

Mike Lemley, President Kensington Homeowner's Association, 7537 South Trenton, stated that he lives 1/4 mile east of the subject site. He commented that the neighborhood enjoys having the station close by. He expressed concerns with the noise pollution levels in the evening hours and loud air-dryers. Mr. Lemley commented that it is unrealistic to think that anyone can try to control the hours of operation for the car wash. He informed the Board that he did view the car wash at Uniform North to see what would actually be in the neighbor's back yards. He stated that the neighborhood would prefer not to have the car wash located on the subject site. He indicated that the light pollution has already been addressed and there will not be any lights on the residential side of the car wash or the southside that faces Riverside Drive. The concern for esthetic value and architectural integrity is a concern of the neighbors. He reiterated that the landscapings that were promised to help keep the noise level down at Uniform South has never come through. He commented that if anything can be gained from this hearing is to complete what was intended to be completed in the beginning. Mr. Lemley stated that during the day he is not disturbed by the subject site, however at night he can hear the radios out of their cars. He agreed with Commander Wells that the neighborhood and Uniform South have a partnership. He stated that the City of Tulsa should live up to their promises by finishing the landscaping for noise reduction. He requested that if the Board is inclined to approve this application, that no air-blower, air-dryer type of equipment or decibel level exceeding the City of Tulsa's ban on noise levels be allowed to be installed without the approval of the Kensington Homeowner's Association.

Comments and Questions:

Mr. Dunham asked Mr. Lemley if he preferred that the car wash be located in the original site? He stated he preferred proposal No. 1 if the Board is inclined to approve the application. He commented that the tanks and the gas station went into the subject site without the neighbors realizing it was happening. The biggest nuisance is the vacuum sweeper located by the tanks. The vacuums are within 150' of the residence and they can hear the vacuums. He expressed concerns that the vacuums would be moved to the car wash site, which would be closer to the residents.

Applicant's Rebuttal:

Mr. Turner stated that he wasn't aware that the vacuum was a problem in its existing location and suggested moving the vacuum to the far side of the station further away from the residents.

Comments and Questions:

Mr. White asked Mr. Turner where he is indicating putting the vacuum? He stated that the vacuum could be located around the north end, which is further west away from the houses.

Case No. 17779 (continued)

Mr. White stated that option No. 1 is 45' from the residential property line and 10' is all that would be required if it was a commercially zoned area.

Ms. Turnbo asked if the Board could make a condition that on the east end of the car wash that there be landscaping professionally planned to reduce the noise?

Mr. Cooper stated that if the Board is inclined to approve this application there should be some conditions on the hours of operation imposed.

In response to Mr. Cooper, Mr. Turner stated that the hours agreed upon previously were that there would be no operation from 10:00 p.m. to 7:00 a.m. the next day. He commented that he did not believe there would be a problem with enforcing the hours of operation. He stated that there could be a timer installed inside the building that is not readily accessible to the Officers.

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 permit accessory car wash for Uniform South Police Sub-station. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2; per plan submitted (site #1), subject to that there be no blower or drying equipment exceeding the City's ban on noise pollution; subject to there being no lights shining toward the residence to the east; subject to proper landscaping installed between the subject site and the neighborhood to the east; subject to the Department looking for an alternate site for the existing vacuum cleaner; 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:

Beginning at the SE/c Lot 1, Block 3, River Grove Addition, thence S88°36'50"W for 72.89'; thence N37°46'15"W for 545.06'; thence on a curve to the left a radius of 44,939.56'; a central angle of 0°16'10" for 211.34" thence N88°17'18"E for 521.54'; thence S1°25'42"E for 611.60' to the POB, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17784

Action Requested:

Special Exception to allow Use Unit 28 in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 28, located 10601 East Ute Street.

Presentation:

The applicant, **Jim Barton/Continental Paper**, was not present.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** Case No. 17784 to August 26, 1997 at 1:00 p.m.

Case No. 17785

Action Requested:

Special Exception to permit a 10' high fence surrounding the property in an AG zoned district. **SECTION 210.B.3. YARDS** - Use Unit 6, located 10901 South Louisville.

Comments and Questions:

Ms. Turnbo stated she did not see that this application is significantly different than the first application. She questioned why the Board is hearing this application again?

Mr. Romig stated that when the application was before the Board previously there was a lot of discussion on whether the legal description was correct. In actuality the property in the northeast was not included in the legal description and the Board's prior decision was appealed to the District Court. In order to give the relief necessary it would require a new application for the northeast corner or go back in and amend the application to include the property. There are some modifications on the front of the subject property since the last application.

Presentation:

The applicant, **James M. Reed**, 320 South Boston, submitted a plat of survey (Exhibit C-1), wall of elevation (Exhibit C-2) and photographs (Exhibit C-3). Mr. Reed stated that he represents the applicant, Mr. & Mrs. Bartmen, who own the subject 20 acre parcel. He introduced Mr. Joe McGraw as an interested party and requested that Mr. McGraw be able to speak with the Board before giving his presentation.

Interested Parties:

Mr. Joe McGraw, 109th & Louisville, stated he passed a petition throughout the neighborhood and found that most of the neighbors are in favor of extending the wall from 8' to 10'. Mr. McGraw submitted the petition in support of this application (Exhibit C-4). He stated that the brick wall is attractively landscaped with double security gates and a security guard on duty. Mr. McGraw commented that the Bartmens will maintain the brick wall and the wall will improve the property for the neighborhood indirectly.

Presentation: (continued)

Mr. Reed stated that the real reason for the special exception was not presented to the Board the first time the application was made. He explained that the 2' addition to the fence is needed for security reasons. His client's security concerns were listed for the following reasons: Mr. Bartmen is the owner of Commercial Financial Services, with over 2500 employees and from time to time will have disgruntled employees. He explained that Mr. Bartmen is a very active CEO of the company and his employees have been invited to Mr. Bartmen's home in various fashions. He indicated that Mr. Bartmen has been the subject of threats from people unhappy with their employment or treatment at the company.

Comments and Questions:

Mr. Bolzle announced that he will be abstaining from Case No. 17785 now that the property owner has been disclosed.

Presentation: (continued)

Mr. Reed stated that Mr. Bartmen has been forced to, consider security issues in more detail. He informed the Board that Mr. Bartmen is a well-known person of wealth and this amplifies the needs for security. He indicated that the security concerns are why his client needs the extra 2' for the brick wall. Mr. Reed stated that the proposed wall is not detrimental to the neighborhood. He explained that the fence will enhance the value of the surrounding properties, as well as his client's property. It will meet the nature and intent of the Code as it relates to this agriculturally zoned district. Mr. Reed stated that the subject property is in the AG district and according to the Code the purpose of an agricultural district is to encourage and protect agricultural land until an orderly transition into urban property can be maintained. He pointed out to the Board that the uses allowed by right in the AG district would be more intrusive than the proposed wall.

Comments and Questions:

In response to Mr. White, Mr. Reed stated that all of the walls, except for the front wall, will be moved 7' within the property line.

Case No. 17785 (continued)

Ms. Turnbo asked the applicant if the front wall will be setback within the setback line? He answered affirmatively.

Interested Parties:

Major Bill Wells, Tulsa Police Department, 600 Civic Center, explained that he was asked to stress to the Board the importance of security for Mr. & Mrs. Bartmen. He stated that there are approximately 35 officers that provide 24 hour a day security for the Bartmen's at their residence. He indicated that he manages and supervises the officers providing the 24 hour security. Major Wells reiterated the need for security due to the high profile lifestyle of Mr. & Mrs. Bartmen. He explained that there are several places on the subject property that give the security officers a limited view and therefore the wall would help to protect the subject property. He stated that an average person could jump up and grab hold of an 8' wall and thereby be able to scale the 8' wall. He commented that by having a 10' wall that would eliminate the possibility of scaling the wall.

Comments and Questions:

Mr. White asked Major Wells how many incidences of security breaches have occurred from uninvited guests since the officers started providing security? He stated that it is not unusual for people to drive into the 20 acres thinking that it is a residential development. He indicated that there are 10 to 15 documented events where people have walked into the subject property.

Mr. White asked Major Wells if the walk-ins have been via the driveway? He stated that the officers cannot see all of the driveway, so therefore they are not sure if the walk-ins are coming in from the driveway. He commented that fortunately the people are just walking around and have not been threatening.

Interested Parties:

Dale Holmes, 2448 East 81st Street, stated that he was hired by CSF last month to be their Corporate Director of Security. He explained that he has reviewed the security measures taking place at Mr. Bartmen's home and his place of business at the City Plex Towers. He reiterated that Mr. Bartmen has received hate mail, threats and has been accosted in his parking lot at the office. He agreed with Major Wells that a 10' wall is difficult to scale without help. Mr. Holmes, concluded that Mr. Bartmen is a well-known individual who has a high profile lifestyle and needs added security measures at his home and office.

Interested Parties:

Thomas Oxley, 3816 East 69th Street, stated he is a real estate appraiser and he has been an appraiser for over 35 years. He explained that he was asked by the applicant if the 10' vs. 8' would affect the neighborhood. Mr. Oxley indicated that he drove by the subject property and did considerable research regarding walls. He expressed his opinion that a 10' wall will enhance the neighborhood instead of hindering the neighborhood.

John Weis, 4415 East 31st, President of Liberty Construction, stated that Mr. Bartmen has an estate size property. He explained that he followed the topography of the ground to make the least amount of impact to the adjoining property owners. There is a fence adjoining the adjacent properties currently that are chain link, which will not be affected because the wall will be moved in 7.5'. He explained that Mr. Bartmen decided to move the wall in so that the maintenance of the wall and security cameras would not bother the neighbors. He stated that the wall will be 1' within the 55' requirement on the west side so that the wall can go from 8' to 10', not 4' to 10'. The intent is for security and safety, as well as aesthetics, by proposing a fence that fits the size of the subject property. He informed the Board that he has followed all of the Codes and requirements of the City. Mr. Weis concluded that the only holdup is the relief needed to go from 8' to 10'. He stated that there will be neighbors who will still be able to see over the fence because of the elevations and the neighbors who will not be able to see over the fence should not be hindered in any way. He expressed the opinion that there is no reason not to grant the relief Mr. Bartmen is seeking because he has given the Board all of the reasons for needing the 10' wall.

Comments and Questions:

Mr. White asked Mr. Reed if he has met with the home owners who are in opposition? He stated he has not met with the neighbors, however Mr. McGraw has met with the neighbors.

Interested Parties:

Steve Dunner, 3817 East 11th Street, stated he owns five (5) acres south of the subject property and suggested that Mr. Bartmen change the top 2' of the wall to wrought iron fencing. He explained that the Bartmen's will either install an 8' or 10' wall and either way it will block the neighbor's view and open space. He commented that with the security technology of today there should be a way to allow the wrought iron fence and still maintain the security the applicant requires. Mr. Dunner concluded that the neighborhood has benefited by the added security.

Protestants:

Larry Tremble, 10945 South Louisville Avenue, stated that he lives next to the subject property. He commented that today's hearing has not been a rehearing to simply correct a legal description. He stated that the hearing has become a case for the Board to rehear a case they have already denied. Mr. Tremble addressed the petition that Mr. McGraw submitted and explained that the majority of the signatures were signed by neighbors who do not abut the subject property. Mr. Tremble expressed the opinion that his petition signed by abutting and adjacent neighbors would be more relevant than Mr. McGraw's. The entire area is known for its large lots and open spaces. He stated that the general esthetics and appearance of the area would be harmed by the construction of the unusually large wall fence. Surrounding property values would be impaired as a result of the wall. He commented that no properties in the surrounding area have a fence the size the applicant is proposing. Mr. Tremble gave a lengthy detail of a five (5) mile radius comparing fences and wall type fences. He indicated that all of the fences within the five (5) mile radius were within the current 8' Zoning Code requirement. He concluded that the abutting and adjacent neighbors to the subject property oppose this application. Mr. Tremble held up a 10' pvc pole to demonstrate how tall the proposed wall will be. He commented that there is no reason, with honest merit, that the Board should vote differently today than it did on the February 25th meeting with a 5-0-0 unanimous vote against the request. He informed the Board that he personally talked with one of the 24 hour security guards who guards the 5' high, see through, chain link fence. He asked the security guard if there had been any security incidents or problems involving anyone to scale or climb over the 5' chain link fence and the security guard's reply was none. Mr. Tremble stated that the guard stated that the new 10' high brick wall was needed because someone could climb over an 8' high brick wall. Mr. Tremble commented that if someone wanted to get over a 10' wall all they would need is a 2' paint bucket to stand on. He stated that if no one has tried to scale a 5' chain link fence and the only time someone came in was through the driveway, then a gate could stop that problem.

Comments and Questions:

Ms. Turnbo asked Mr. Tremble if the setback being 7.5' makes a difference to him? He stated that there is a 5' chain link fence surrounding the subject property currently and to anyone's knowledge, no one has attempted to scale. With a 10' wall placed inside the 5' chain link there is an appearance of a prison camp. Mr. Tremble explained that he is only representing people in the neighborhood who signed the petition against the previous application.

Case No. 17785 (continued)

Protestants:

Steven Allen Jay, 10928 South Quebec Place, stated that he lives on the east side of Mr. Bartmen's property. Mr. Jay explained that his property sets below the Bartmen's property and if he moves his fence back 7.5' it will have no effect from his stand point. He stated he sets toward the back of the lot and if the 10' wall is allowed he will not see the sun from 4:30 p.m. in the summer and 3:00 p.m. in the winter. With the topography of the subject property, the Bartmen's property sets higher than his and the 10' wall actually becomes a 12' wall once it is moved back. He reiterated that Mr. McGraw did not meet with any of the abutting or adjacent property owners. He commented that Mr. Bartmen may have an estate, however, the rest of the neighborhood is not an estate. If Mr. Bartmen's estate was out in the country, he could understand how a wall like this could not harm anyone. The abutting homes are small and do not own estates. He expressed concerns that the 10' wall will reduce the value of his property and ruin the open setting. Mr. Jay stated that the neighborhood area is one of the lowest crime areas in Tulsa. He concluded that the people speaking against the proposal are people living next to the subject property and the people in favor are employees of Mr. Bartmen.

Applicant's Rebuttal:

Mr. Reed stated that the petition submitted by Mr. McGraw did contain adjacent property owners and surrounding property owners' names. He further stated that an 8' wall is going to be constructed if a 10' wall is not granted regardless. Mr. Reed reminded the Board that this is not a hardship issue, but a safety issue. There has been expert testimony that this wall will not be detrimental the neighborhood nor injurious to the neighborhood.

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** a **Special Exception** to permit a 10' high fence surrounding the property in an AG zoned district. **SECTION 210.B.3. YARDS** - Use Unit 6; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

a tract of land in the N/2, SE/4, SW/4 SEC. 28, T-18-N, R-13-E, I.B.M., Tulsa County State of Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: commencing at the NW/C of said N/2, SE/4, SW/4: thence S 89°54'31" E, along the north line for 991.81' to POB; thence continuing S 89°54'31" E along the N line for 325.52' to the NE/C; thence S 00°15'40" W along the E line for 398.71', thence N 89°54'31" W, parallel to the N line for 329.99'; thence N 0°52'57" E for 398.75', to the POB. said tract containing 3.00 acres. more or less; AND a tract of land in the N/2, SE/4, SW/4 of SEC. 28, T-18-N, R-13-E, IBM, Tulsa County State of

Case No. 17785 (continued)

Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows: Commencing at the SW/c, N/2, N/2, SE/4, SW/4; thence N 0°12'14" E along the W line of said N/2, SE/4, SW/4 for 20.0', POB; thence S 89°53'25" E parallel to the S line for 987.87'; thence S 0°52'57" W for 40.0'; thence N 89°53'25"W, parallel to the S line for 987.38' to a point in the W line; thence N 0°12'14" E along the W line for 40.0' to the POB, said tract containing 0.91 acres more or less; AND a tract of land in the N/2, SE/4, SW/4, SEC. 28, T-18-N, R-13-E, IBM, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, AND being more particularly described as follows to-wit: Beg. at the SW/C of said N/2, SE/4, SW/4; thence N 00°12'14" E along the W line of said N/2, SE/4, SW/4 for 310.33'; thence S 89°53'25" E parallel to and 20.0' perpendicularly S of the S line of the N/2, N/2, SE/4, SW/4, for 987.38'; thence S 0°52'57" W for 47.96'; thence S 89°54'31" E parallel to the N line of said N/2, SE/4, SW/4, for 329.99'; thence S 0°15'40" W along the E line 262.62', SE/C; thence N 89°52'48" W, along the S line for 1316.47', to the POB; said tract containing 9.02 acres more or less, and a tract of land in the N/2, SE/4, SW/4, SEC. 28 T-18-N, R-13-E, IBM, Tulsa County, State of Oklahoma according to the U.S. Government Survey thereof, and being more particularly described as follows to-wit: Beg. at the NW/C of said N/2, SE/4, SW/4; thence S 89°54'31"E, along the N line for 991.81'; thence S 0°52'57" W for 310.79'; thence N 89°53'25" W, parallel to and 20.0' perpendicularly N of the S line of the N/2, N/2, SE/4, SW/4, for 987.87' to a point in the W line; thence N 0°12'14" E along the W line for 310.34', to the POB, said tract containing 7.06 acres more or less, City Of Tulsa, Tulsa County, Oklahoma

Case No. 17786

Action Requested:

Variance of the access requirements. **SECTION 804. ACCESS REQUIREMENTS -** Use Unit 10, located NW/c, US-169 & East 81st Street South.

Presentation:

The applicant, **William B. Jones**, 15 East 5th Street, submitted a site plan (Exhibit D-1) and stated that the subject property is a long narrow tract (208' x 218'), which was left over from the Mingo Valley Expressway. When the detail site plan was approved one of the conditions of approval was that the Board would have to grant a variance of Sec. 804. Section 804 requires a 60' collector street in the CO district and this will be difficult to provide when there is a total of 200'. He stated that you would not want to put a 60' collector street next to an off-ramp of an expressway. He concluded that the TMAPC recommended that he come before the Board for the requested variance.

Case No. 17786 (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 **APPROVE** a **Variance** of the access requirements. **SECTION 804. ACCESS REQUIREMENTS** - Use Unit 10; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

A tract of land in E/2, SW/4, Sec. 7, T-18-N, R-14-E, I.B.M., Tulsa County, Oklahoma, according to the US Gov. survey thereof being more particularly described as follows to wit: Beg. at the SE/c, E/2, SW/4 of said Sec. 7, thence N 0°10'02" E, along the E line of said E/2, SW/4, for 534.0'; thence N 89°35'17"W, parallel to the S line for 322.58'; thence S 0°06'35"E, for 534.02'; thence S 89°35'17"E, along S line for 320.00' to the POB, less the S 24.75' for roadway purposes, less and except a strip, tract or parcel of land lying in and being a part of the E/2, SW/4, Sec. 7, T-18-N, R-14-E, and more particularly described as follows: Beg. SE/c of said E/2, SW/4; thence NWly along the E line for 534.00'; thence SWly parallel to S line for 104.05'; thence S 19°37'54"W for 30.34'; thence S 02°16'48" E for 400.00'; thence S 83°06'34" W for 213.65'; thence Sly for 83.50'; thence Ely along said S line for 320.00' to the POB, and located on the NW/c of US Highway 169 & E 81st St. S., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17787

Action Requested:

Appeal the decision of the Administrative Official that the construction & use of the property was not in accordance with the approved plans, and a Variance of the number of required off-street parking spaces from 24 to 13. **SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS; OTHER THAN DRIVE-INS**, located 1517 South Main Street.

Presentation:

The applicant, **Robert A. Huffman, Jr.**, 6120 South Yale, submitted a site plan (Exhibit E-1) and photographs (Exhibit E-2). Mr. Huffman stated he is representing the owners of the subject property. He indicated that the subject property currently houses a Bill & Ruth's Submarine Sandwich Shop with 13 parking spaces available. He explained that the owners previously owned a 33' wide strip of land immediately north of the subject property with 8 additional parking spaces. The zoning calls for 24 parking spaces according to the square footage of the building and the Board granted a variance in December of 1995 to operate the business with 21 parking spaces. He stated that the owners entered into a tie contract with the City, however in October

Case No. 17787 (continued)

1996, the Oklahoma Court of Civil Appeals confirmed a decision in the District Court of Tulsa County, which upheld a sale of the property based on an unreleased demolition lien. He explained that the owners lost the strip of land by operation of law and therefore the subject property only has 13 parking spaces. Mr. Huffman indicated that the many of the customers walk to the shop from the surrounding areas. He stated that the sandwich shop is convenient for the surrounding area because there are very few eating establishments. He commented that he checked the parking lot during the busiest time of the day and there were only 8 cars parked out front. The subject building was previously an old convenience store and it is not configured for anything other than a small restaurant or sandwich shop. He stated that to force the owners, at this point, to adhere to what is really a suburban parking requirement would result in a detriment to his client.

Comments and Questions:

Mr. Dunham informed the Board that he drove by the sandwich shop and noticed that there is another space for lease in the subject building. If the owner leases the other space that would increase the number of parking spaces.

In response to Mr. Dunham's statement, Mr. Huffman stated that it is his understanding that the space for lease is only to be leased to a pizza delivery company.

Mr. Huffman stated the space for lease is 500 SF and is already setup to be a pizza delivery business.

Mr. White asked the applicant if the two apartments in the back have parking spaces? Mr. Huffman was not aware of the apartments on the subject property.

Ms. Turnbo stated that she passed the subject property before the meeting and there were cars double parked on 16th Street.

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 **DENY** the Appeal and **UPHOLD** the decision of the Administrative Official that the construction & use of the property was not in accordance with the approved plans, and **DENY** the Variance of the number of required off-street parking spaces from 24 to 13. **SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS; OTHER THAN DRIVE-INS;** 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:

Lot 5, and the S 21' of Lot 4, Block 1, Stansbery Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17789

Action Requested:

Special Exception to allow an existing church and accessory uses in a CBD district.
SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS - Use Unit 2, located 913 South Boulder.

Presentation:

The applicant, **Wallace O. Wozencraft**, 1619 South Boston, Submitted a site plan (Exhibit F-1) and stated he is the architect for the First Christian Church. He explained that it was brought to his attention that the church was never approved for the subject property. The church was built in 1926 and a record search indicated that the special exception had never been granted for church use on the subject property. Mr. Wozencraft requested that a special exception be approved for the existing church and accessory uses.

Comments and Questions:

Mr. Bolzle asked Mr. Wozencraft if the site plan is reducing the number of parking spaces on site? He stated that it is reducing the number of parking spaces on site, however there is a parking lot across Main Street that the church owns and uses for additional parking.

Mr. Bolzle asked the applicant if the Church would have a problem with tying the additional parking lot to the Church property? He agreed to a tie contract.

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 an existing church and accessory uses in a CBD district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2, subject to a tie agreement with the W/2 of the block that lies with 9th and 10th Street and between Main & Boston; 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:

Original Township, Block 191, Lots 1-6, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17790

Action Requested:

Special Exception to permit a 100' tower for a wireless communications antenna to replace a previously approved 40' tower in an RS-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 4 and a Special Exception to reduce the required 110% setback from abutting residential properties. **SECTION 1204.C.3.g.(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES**, located 3701 East 71st Street.

Presentation:

The applicant, **Land Acquisitions, Inc., Denny Redmon**, has requested a continuance to September 9, 1997.

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. 17790 to September 9, 1997, at 1:00 p.m.

Case No. 17791

Action Requested:

Special Exception to allow Use Unit 15 in a CS district and approval of an amended previously approved site plan. **SECTION 1204.C.3.g.(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES**, located 1217 South 129th East Avenue.

Presentation:

The applicant, **Danny Mitchell**, represented by **Carolyn Harter**, 1238 South 105th Street, submitted a site plan (Exhibit G-1) and letters of support (Exhibit G-2). Ms. Harter stated that her and her spouse own Transcontinental Supply and Harter Service & Repair. She explained that she has been in business for 19 years and the business is located on 3 acres. Ms. Harter stated she would like to build a warehouse on the subject property.

Comments and Questions:

Mr. Beach asked the applicant if this is an expansion of the existing business? She stated she currently has an office and a small warehouse. She explained that the warehouse is too small for both businesses and the new warehouse will be for the Transcontinental Supply Business.

Mr. White stated that the site plan indicates three (3) additional buildings. Ms. Harter stated that the three (3) additional buildings are for in the future. She explained that the first building to be built will be the building indicated in the back of the three (3) acres (4,750 SF).

Case No. 17791 (continued)

In response to Mr. White, Ms. Harter stated that she would like approval for all three (3) additional buildings, however, she will not be building all three (3) at the same time.

Mr. Beach informed the Board that the applicant has already received a special exception to allow the use on the subject property. The applicant is actually modifying her site plan.

Mr. Bolzie stated that the Board was specific when they approved the special exception for the Use Unit 15 to be limited to the west building. Mr. Bolzie commented that the Board should act on the special exception.

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 Use Unit 15 in a CS district and approval of an amended previously approved site plan. **SECTION 1204.C.3.g.(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES;** 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:

N 91.5', Lot 6 and Lot 7, Less W 25' thereof and Lot 8, Less the W 25', Block 4, Romoland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17792

Action Requested:

Special Exception to allow church use in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** - Use Unit 2, a Variance of lot size in an AG zoned district. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, a Variance to meet parking requirements on a lot other than the lot where the principal use is located. **SECTION 1301.D. OFF-STREET PARKING; GENERAL REQUIREMENTS**, and a Variance of the required 200' lot width requirements. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS**, located SW/c East 61st Street and South 89th East Avenue.

Comments and Questions:

Mr. Beach informed the Board that there was some confusion on the legal description provided by the applicant. He stated that there is a possibility that the notice is flawed and the case may need to be continued for additional advertising.

Case No. 17792 (continued)

Mr. White stated that the legal description and the notice are flawed because it is not in the same section.

Presentation:

The applicant, **Danny Mitchell** was present.

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 **CONTINUE** Case No. 17792 to September 9, 1997, in order to correct the legal description and re-advertise.

Case No. 17793

Action Requested:

Variance to allow parking on a lot other than the lot where the principal use is located. **SECTION 1301.D. OFF-STREET PARKING; GENERAL REQUIREMENTS - Use Unit 15**, located 1433 East 6th Street.

Presentation:

The applicant, **Ronald J. Morris**, 505 South Quaker, submitted a site plan (Exhibit H-1) and stated he is in the process of purchasing the subject property. He explained that because this is a proposed print shop he will need 20 parking spaces. The subject property has three (3) or four (4) parking spaces and adjacent to the subject property is an existing parking lot. He indicated that he has a ten (10) year lease to utilize the adjacent parking lot.

Comments and Questions:

Mr. Stump informed the applicant that his site plan indicates 50' width on the double row of parking and the code requires it to be 60' in width.

In response to Mr. Cooper, Mr. Morris stated he has first rights to purchasing the adjacent parking lot if the owner decides to sell.

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 **APPROVE** a **Variance** to allow parking on a lot other than the lot where the principal use is located. **SECTION 1301.D. OFF-STREET PARKING; GENERAL REQUIREMENTS - Use Unit 15**, per plan submitted; subject to a lease contract on the adjacent parking lot; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 15-18, Block 6, Factory Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17795

Action Requested:

Special Exception to use the site for an electric sub-station. **SECTION 401.**

PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 4, located 96th Street & Yale Avenue.

Presentation:

The applicant, **Kevin C. Coutant**, 320 South Boston, representing **PSO**, submitted a site plan & photographs (Exhibit J-1). Mr. Coutant stated that the application is for a sub-station for the PSO company. He explained that PSO hired an engineering group in 1996 to forecast the future needs for sub-station sites in the south Tulsa area. The conclusion of the report was that a sub-station was need for 101st & Yale area. Mr. Coutant indicated that the Bixby and 111th Street substations are overloaded and need relief. He described the criteria needed to choose a substation site as follows: The sub-station needs to be close to existing transmission lines, find a site that minimizes the impact in the surrounding area. The proposed site is located generally between Yale (westerly boundary) and Canton (easterly boundary). He stated the subject site abuts directly to the north of the Creek Turnpike and the south side of the Creek Turnpike will be buffering the proposed location of the sub-station. There is a substantial distance to the west between the proposed site and Yale Avenue, which is a flood plain area that is low and has several trees. To the north of the proposed site there is a flood plain area and there is an existing transmission line with an easement that is 100' wide. Canton is to the east of the subject property, which is 80' to 100' away with substantial existing trees and additional proposed landscaping to help integrate into the neighborhood. Mr. Coutant commented that the proposed site is an ideal location because it is in a vicinity that is highly urbanized and is contiguous to heavy traffic, a flood plain and the station is sandwiched into the site, which he feels is good responsible planning. The location for the sub-station has been designed to be as far away from the surrounding neighbors as possible and provide landscaping to help provide a visual buffer. He stated that the substation pad will be 1' below the driveway grade, 10' from the north property line, 200' from the west property line, 80' east from the property line, however the structure itself will be an additional 40' to 50' in. He suggested that if the Board is inclined to approve this application it should be with the conditions that Storm Water Management approves the proposal, per site plan, and per landscaping plan.

Protestants expressed the following concerns:

Canton is a narrow country road, the substation will devalue their homes, concerns that the majority of the land is a flood plain, PSO has not met with the neighbors as they had indicated, planting or screening on the northside of the property, blocked views, concerned with added traffic and their children playing in the area, substation will be detrimental to the public welfare and injurious to the neighborhood.

Case No. 17795 (continued)

Jim Barnes, 5110 East 93rd, **David Lynch**, 9511 South Canton, **Bill Vandale**, 9515 South Canton.

Applicant's Rebuttal:

Mr. Coutant stated that the street is a narrow street and serves the neighborhood well. He explained that there will be construction traffic, however once the substation is completed and on-line it will not be a manned or occupied facility. He commented that there would be a pickup truck or van once a week or less to test the substation. With regard to planting trees and shrubs on the northside for screening, Mr. Coutant stated that he did not think Storm Water Management would approve the plantings because of the flood plain. He offered to plant on the northside if Storm Water Management will allow it. The trees would be conforming to the landscape ordinance and if the size is an issue, than PSO would be willing discuss it.

Comments and Questions:

Mr. Cooper asked the applicant how the berm height was arrived at? Mr. Coutant stated he did not know.

Mr. Cooper asked Mr. Coutant if the proposed berm is a storm water issue or a design issue? He stated it was a design issue.

After a lengthy discussion regarding landscaping and height of equipment, the Board suggested that the application be continued in order for Mr. Coutant and PSO to meet with the neighbors for input on landscaping and screening.

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. 17795 to August 26, 1997, in order for the applicant to meet with the neighbors surrounding the subject site.

Mr. Romig introduced Leslie Myers from the City Legal Department.

Case No. 17796

Action Requested:

Special Exception to allow a photography studio in an RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a Variance to allow signage in an R district not exceeding 32 SF. **SECTION 402.B.4.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS; ACCESSORY USE CONDITIONS** - Use Unit 11, located 1611 South Elwood.

Presentation:

The applicant, **Andy Leithner**, represented by **Kelly Carter**, Patterson Realtors, submitted a site plan (Exhibit K-1) and photographs (Exhibit K-4). Mr. Carter stated that the 32 SF is a mistake and the sign will actually be 3' x 3' (9 SF). He gave a detail break down of the surrounding properties, which range from apartments, multi-family residences to rental property and homes. Mr. Carter made the comment that the subject property is located in a hodge podge of different zonings, which are higher density zonings. He described the proposed photography studio as a low profile business with low volume. The proposed business is run by Mr. Leithner and his spouse, however in the future they would like to hire someone to help with the day to day business.

Mr. Leithner, 4213 South Rockford, submitted letters of support (Exhibit K-2) and stated that he operates a small, low volume, photography business. He intends to raise his family in the subject home, as well as operating the small photography business. The majority of his business is conducted on location and occasionally one client per day would like to come by his home and pickup their order. He described the sign as 3' x 3', which would be similar to the Resonance sign, which is across the street from the subject property. The sign is not intended for advertising, but to inform the public that he takes appointments only and that the customers do have the right house. Mr. Leithner stated he did not want any walk-in traffic to his business and he does not advertise his address. He explained that in the Yellow Pages Advertisement he includes only his phone number and his business cards do not include his address.

Comments and Questions:

Ms. Turnbo asked the applicant if he works out of his home at his present location? He answered affirmatively.

Ms. Turnbo asked the applicant if he had hired employees in his present location? He answered negatively.

Mr. Cooper asked the applicant to clarify the total square footage of the sign? Mr. Leithner stated the sign will be 9 SF.

Protestants: The following concerns were expressed by the protestants:

Traffic problems on Elwood, rebuilding the neighborhood back to residential, vintage homes, parking problems along the narrow street, setting a precedent and allowing more commercial business in the subject area, submitted a letter of protest (Exhibit K-3) and photographs (Exhibit K-5).

Case No. 17796 (continued)

Christine Dickson, 1518 South Elwood; **Joan Hoar**, 1415 South Frisco; **Ray W. Conn**, 1601 South Elwood; **Clifford Michaels**, 8546 East 33rd Street, joint owner of property located at 1625 South Elwood; **Joann Porter**, 1631 South Elwood.

Applicant's Rebuttal:

Mr. Carter stated that Mr. Leithner filed for an exception because he was over the SF allowed for home occupation.

Comments and Questions:

Ms. Turnbo informed Mr. Carter that if Mr. Leithner hired someone outside of the home to work at the business, than it is no longer a home occupation.

Applicant's Rebuttal: (continued)

Mr. Leithner stated that he respects older homes and would like to raise his family in the subject property. He commented that his customers would only park along the street for approximately one hour or less. He reiterated that the sign will be a small sign to indicate that the customers have the right home.

Comments and Questions:

Mr. Bolzle asked if there is any reason why he could not fit into the home occupation, other than the sign and the proposed future employee? He stated he could fit into the home occupation guidelines.

Mr. Bolzle stated that the subject area has had several compatible businesses over the years. The Code allows for office uses in RM-2 districts by special exception and that has been done in various areas successfully.

Ms. Turnbo stated that the applicant is before the Board for a special exception to allow a photography studio. She commented that she is very aware of the street, which has a terrible traffic problem. She stated that the neighbors have invested money in the subject area and there is a study that says that this part of Riverview should be converted back to single-family dwellings. This neighborhood was blanket zoned and the property owners had no say in the zoning. The neighborhood is listed as a potential National Registry and Historic Preservation of Tulsa. Ms. Turnbo stated she would not be in agreement with a business on the subject street because the parking is very difficult. The homes are built with very short and narrow driveways. She acknowledged that the McCormicks Studio has been on Carson Street for a very long time, however it is east of Denver and is in an area on the Comprehensive Plan that states it is mixed use. The subject property is a part of the District's Comprehensive Plan and it states that it should remain residential.

Case No. 17796 (continued)

Board Action:

On **MOTION** of **TURNBO**, to **DENY** a **Special Exception** to allow a photography studio in an RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** to allow signage in an R district not exceeding 32 SF. **SECTION 402.B.4.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS; ACCESSORY USE CONDITIONS** - Use Unit 11.

There being no second the Motion failed.

Applicant's Rebuttal: (continued)

Mr. Leithner stated that he would definitely fit into the classification of a Home Occupation because the sign would be a convenience for the neighbors and maybe in the future he would hire extra help. He explained that he is a family man and would like to keep his business small. He stated he could operate his business without a sign or an outside employee.

Comments and Questions:

Ms. Turnbo asked the applicant if he is stating that he does not take portraits in his home and everything is done outside the home? He stated that he might have one person a day come by his home to pick up their order or have their portrait made. He explained that one room would be set up for portraits, which would be 400 SF.

After discussion it was determined that the applicant needed to re-advertise for a home occupation.

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 **CONTINUE** Case No. 17796 to September 9, 1997, to enable the applicant to re-advertise for a home occupation.

Case No. 17797

Action Requested:

Variance of setback from an abutting street from required 20' to 11.5' to allow an expansion to an existing non-conforming garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 11, located 1347 South Jamestown Avenue.

Case No. 17797 (continued)

Presentation:

The applicant, **Edward F. Harrison**, 1347 South Jamestown, submitted a survey (Exhibit L-1), site plan (Exhibit L-2) and photographs (Exhibit L-3). Mr. Harrison stated that he has a small garage that is supposed to be a two-car garage, however it will not hold two cars. He explained that he would like to add to his existing, non-conforming, garage to be able to park two cars in the garage. Mr. Harrison stated that the proposed addition will provide extra room for his lawn tools and storage. He commented he did not anticipate any impact on the subject neighborhood and the garage will change very little in appearance. The existing houses along 14th Street are all built close to the street. He concluded that he would not be changing the look of the neighborhood or his existing property.

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 **Variance** of setback from an abutting street from required 20' to 11.5' to allow an expansion to an existing non-conforming garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 11; per plan submitted; finding that the size of the lot creates a hardship; finding that the requirements for a variance in Sec. 1607.C. has been met, on the following described property:

Summit Heights Addition, Block 13, Lot 1, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17798

Action Requested:

Variance to permit structure in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and Variance of the required setback from 81.5' to 70' to permit construction of a school. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located SE/c 11th & Yale.

Presentation:

The applicant, **Eric P. Nelson**, represented by **Bob Labase**, **Tulsa Public Schools**, 3020 South New Haven, submitted a site plan (Exhibit M-1) and stated that the encroachment will be on the Yale side of the subject property. He explained that there will be a fence and a sign located on the Yale side.

Case No 17798 (continued)

Comments and Questions:

Mr. Bolzle asked if the sign that sets at an angle on the corner is in the right-of-way? The applicant answered affirmatively.

Mr. Bolzle asked the applicant if there is a fence that extends to the east along 11th Street? He stated that there is an existing fence on top of the existing retaining wall that will not be removed. There will be a nursery on the SW/c of the facility and there will be a fence to enclose a small area to the southwest between the facility and the existing fence for the playground.

In response to Mr. Bolzle, Mr. Labase stated that the sign will be on top of the retaining wall. He stated he will be replacing the existing sign with a better looking sign.

Interested Parties:

Phil Burns, 2843 East 35th Place, stated that his family owns the three duplexes directly across the street from the subject property. He explained that he wanted to see the plans and after reviewing the plans he stated that he did not have any objections.

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 **Variance** to permit structure in the planned right-of-way. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and **Variance** of the required setback from 81.5' to 70' to permit construction of a school. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 2; finding that the requirements for a variance in Sec. 1607.C. have been met, 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.

OTHER BUSINESS

Case No. 17758

Action Requested:

Correction of minutes of June 24, 1997 meeting due to error in legal description for Case No. 17758.

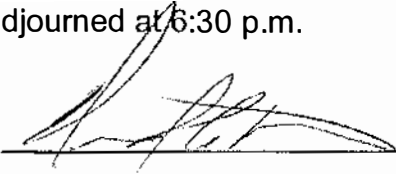
Case No. 17758 (continued)

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** Correction of minutes for June 24, 1997, Case No. 17758 (legal description correction).

There being no further business, the meeting was adjourned at 6:30 p.m.

Date approved: _____



SEPTEMBER 2, 1997

Chair

