

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 734  
Tuesday, September 9, 1997, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
Bolzle Dunham Turnbo White, Chair	Cooper	Beach Huntsinger Matthews 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, September 5, 1997, at 12:44 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 **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** the minutes of August 12, 1997, (No. 732).

**UNFINISHED BUSINESS**

**Case No. 17788**

**Action Requested:**

Variance of the required parking spaces. **SECTION 1204.C.3.g.(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES**, located NE/c South Zunis and East 6th Street.

**Presentation:**

The applicant, **Joseph A. McCormick**, 601 Park Tower, 5314 South Yale, submitted a site plan (Exhibit A-1) and stated he has not provided the Board everything that they will need to make a decision today. He requested a continuance to allow for additional information to be submitted and a chance to meet with the protestants.

**Comments and Questions:**

Mr. White asked the staff if this is a continued case? Mr. Beach stated that the same application was filed June 30, 1997, and there have been several communications with the applicant regarding deficiencies on of the site plan. Mr. Beach concluded that a complete site plan has not been submitted to the Board at this time.

Ms. Turnbo asked the staff if this is the second time that the protesters have been in attendance? Mr. Beach answered affirmatively.

**After discussion, the Board determined that the case should be heard today.**

**Presentation: (continued)**

**Mr. McCormick** stated that the application involves a bar that has been requested to close by the City of Tulsa. He explained that under the new ordinances the bar does not have the required parking spaces. He stated that the bar has been in operation for over 25 years without parking spaces. Mr. McCormick indicated that the patrons of the bar live within the neighborhood and walk to the bar. He commented that the bar never needed parking spaces in the past and it does not need required parking now. He explained that he has been attempting to find additional parking spaces by creating an inside parking lot in an adjoining warehouse building. Mr. McCormick concluded that he knows that the parking spaces created in the warehouse building will not be used because his patrons do not drive to the bar. The required parking poses a hardship for the subject bar because it can not efficiently be used for any other purpose. He commented that the subject property is peculiar because it has operated in the present location for 25 years with no evidence of adverse affects. The variance, if granted, would not impair the purposes or intent of the ordinance. Mr. McCormick stated that substantial justice would be done if the variance is granted.

**Comments and Questions:**

Mr. Dunham asked if the bar has been at the present location for 25 years, what has changed to caused the bar to come before the Board? Mr. Ballentine stated that in 1993, parking regulations for this type of facility were adopted and the bar was given two (2) years to come into compliance or move. Mr. Ballentine submitted photographs (Exhibit A-2) and a zoning violation letter (Exhibit A-3).

Mr. Stump stated that working with the neighborhoods, it was found that certain types of uses such as this, when in close proximity to residential areas and having insufficient parking, had caused significant problems with parking in the neighborhood, late night people going to their cars and slamming doors, etc.

Case No. 17788 (continued)

**Protestants: the following protestants voiced the same concerns:**

**Patricia Brashier**, 548 South Zunis, submitted photographs (Exhibit A-4) and a copy of a petition submitted April 22 (Exhibit A-6); **Margaret Sunberg**, 2304 East 5th Place; **Maria Barnes**, 2252 East 7th Street, representing her neighborhood and **Mark Oliver (Oliver, Whisenhunt Funeral Homes)** submitted a letter of protest (Exhibit A-5); **Chris Smith**, 543 South Yorktown; **Darryl McGee**, 552 South Zunis; **Paul Sunberg**, 2304 East 5th Place, representing **Grace Lutheran Church**; **Allen Stewart**, 2244 East 7th Street.

**The following concerns were expressed by the protestants:**

Drug dealing; urinating outside; fights on the sidewalks and in the street; vehicles parked in the neighborhood; patrons stripping outside; trash in the neighborhood yards; vandalism; public sex acts; patrons blocking neighborhood driveways; patrons double parking; drunk driving; patrons passing out in the church yard and neighborhood yards; security concerns for children of the neighborhood; police being called frequently for fights; bar and patrons are affecting local businesses and churches; local businesses parking lots are being used by patrons of the bar; Patrons of bar standing in the street; broken glass; bar cannot meet the required parking; the bar does not have curb cuts nor access for parking shown; patrons do drive to the bar; proposed parking is a tight squeeze for sober drivers and drivers inebriated will not be able to make it into the proposed parking; Kendall/Whittier Neighborhood is on the rebound and the bar no longer fits into the neighborhood; new elementary school being built, which will bring new families into the neighborhood; Grace Lutheran Church is expanding; face of the neighborhood is changing.

**Applicant's Rebuttal:**

**Mr. McCormick** stated he cannot speak to specific incidences mentioned by the protestants because he did not see the acts. The neighbors do not want a bar in the neighborhood and the ordinances do allow a bar if there is parking available. He reiterated that it is unnecessary to meet the required parking because the patrons walk to the bar. Mr. McCormick asked the Board if it is appropriate to take away the owner's right to do business, when he has been doing business at the subject location for 25 years?

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **DENY** a **Variance** of the required parking spaces. **SECTION 1204.C.3.g.(1) USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES**, 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:

Case No. 17788 (continued)

Lots 15 & 16, Block 4, Hillcrest Addition and that part of vacated Zunis Avenue, 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.

**Comments and Questions:**

Mr. Beach informed the Board that he has received a letter from the applicant stating that a 70' tower is all that is needed.

**Presentation:**

The applicant, **Land Acquisitions, Inc., Denny Redmon**, represented by **Kevin Coutant**, 320 South Boston, submitted a site plan, maps & photographs (Exhibit B-3). Mr. Coutant stated he is representing United States Cellular Telephone Company. He explained that the subject site has been before the Board previously for a 40' height telecommunications tower, which was approved by the Board. He stated the facility has been built and is currently operating, however, the Engineers have determined that the 40' tower is inadequate for a quality signal for the customers. The Engineers propose that a 70' tower will be more efficient and provides for the opportunity to co-locate another antenna at 50'. He reminded the Board that the tower is made of wood and blends in with the subject location. He described the subject site as being in a residentially zoned area. There is a house on the subject site, which is 70' west of the tower. The next nearest residential home in the area is 200' from the tower. The distance from the tower to the north is approximately 280', to the east 550' and to the south there is a creek that runs under with a drainage way that is approximately 200' from the tower. The tower will have slim line antennas with a private fence around the base of the tower. He concluded that the need for the 70' high tower is for a better quality of service in the area. The tower is in the bottom of a hole and a 40' high tower is not efficient. He reiterated that the proposed 70' tower will be made of the same materials as the 40' tower that is currently on the subject site.

**Comments and Questions:**

Mr. White stated that the applicant is requesting to raise the 40' tower to a 70' tower because of poor coverage, but he is advocating a possible collocation at the 50' level. Would the 50' level be considered by any of the other cellular companies based on the prior experience with the 40' height? Mr. Coutant stated that collocation is possible at 50' because there are different technologies in wireless communication. The engineering requirements for height and coverage are different. He could not state for sure if one of the cellular companies will find the 50' level satisfactory. He stated that U.S. Cellular wants to be sensitive to the policy to install a tower that can be collocated to reduce the number of towers.

**Protestants:**

**Pat Michen**, 7025 South Louisville, submitted photographs (Exhibit B-1) and stated that last year when U.S. Cellular wanted to install a 40' tower he had no concerns. He expressed concerns that the same engineers who chose the 40' tower now say that they need to go to 70' in height. He explained that the tower sits in the bottom of a bowl and the engineers picked this location for a 40' high tower. Mr. Michen questioned if the jurisdictional requirements have been met for the hearing (Exhibit B-2). He stated that the subject neighborhood has no overhead lines and everything has been buried. He explained that the subject tower is behind his house and it is not visible from his home at 40' in height. The pole is not visible until you are even with it as you approach Harvard and 71st Street. He indicated that eventually the City of Tulsa will be planting trees in the median, which will hide the 40' tower even more. He expressed concerns that a 70' tower will be visible and it will give the neighborhood an industrial look. Mr. Michen stated that the tower will de-value the properties in the subject area. He requested the Board to deny this request. He stated he did not believe that raising the tower to 70' is the only way to correct the bad coverage for the area.

**Dean Mandelbaum**, representing Vienna Woods Home Owner's Association, stated that the residents enjoy the skyline and would not like to have it marred by cellular towers. He commented that U.S. Cellular has done a good job of blending the 40' tower in with the surrounding landscape. He explained that the proposed tower will be approximately 10' taller than the tree line around the subject area. He commented that digital communications is the wave of the future and every cellular carrier is promoting digital communications. He indicated that he talked with two major cellular carrier's engineers and have learned that if a digital tower is made too high they get a mixture of signals that causes an echo. The subject tower is not a digital tower and it makes no sense to extend the height of a tower that is already becoming obsolete. He explained that he has been a customer of U.S. Cellular for eleven years and since the 40' tower has been installed he has had no problems with communications. He commented that two (2) weeks ago engineers from U.S. Cellular came out and readjusted the subject tower and now he is losing calls and communication. He

suggested that U.S. Cellular realigned their tower in order to prove their point that they need a taller tower.

**Applicant's Rebuttal:**

**Mr. Coutant** stated that the subject location is a good location for the subject tower. He agreed that a taller tower will be easier to see than a shorter tower, but it is necessary in order to provide quality service. He commented that a 70' tower is a relatively short tower and takes care of the design requirement. Mr. Coutant stated that one year ago when U.S. Cellular came before the Board they exercised good faith with the proposal of a 40' tower. He explained that U.S. Cellular tried to be sensitive to the residents and proposed the very shortest tower that they thought would work. He stated the shorter tower is not working and U.S. Cellular does not claim any special entitlement on the application due to the fact that U.S. Cellular is already in place. He commented that the application needs to stand on its own merits and it is a good application for a 70' tower at the subject location.

**Comments and Questions:**

Mr. Bolzle stated that all of the elements that the ordinance requests are present. He commented that he has to take the word of the applicant that this is a legitimate problem and that they have done their best to minimize the height. The applicant has offered to provide the option to collocate. He stated that there is very little commercial property in the surrounding area available for placing a cellular tower.

Mr. Romig stated that one of the differences between this application and the application one (1) year ago is that the City has enacted the cellular tower ordinance. One of the provisions of the ordinance is that if they wanted to increase the height to accommodate collocation, they could do so as long as they did not exceed 30'. U.S. Cellular would have the right to raise the tower 30' to enable collocation under the new ordinance and would not need to come to the Board.

**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 permit a 70' 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**; per plan submitted; subject to the following conditions: the tower being a maximum of 70' monopole tower, wood laminated constructed, utilize the slim line antennas, collocation opportunity be provided on the tower, the privacy fence around the entire area be maintained, the approval is to replace the 40' tower; finding that the

Case No. 17790 (continued)

requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Commencing at the SW/c of the SE/4, SW/4, SE/4, SW/4, Sec. 4, T-18-N, R-13-E, IBM, Tulsa County, Oklahoma, thence Nly along the Wly line of said SE/4, SW/4, SE/4, SW/4 which is the Ely line of Vienna Woods Addition to the City of Tulsa for 60.00'; thence due east for 91.00' to P.O.B.; thence N0°27'33"W for 44.00'; thence S89°17'02"E for 40.01'; thence S0°27'33"E for 43.50'; thence due west for 40.00' to P.O.B., 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. White asked the staff if the legal notification is correct? After a lengthy discussion it was decided staff was confident that the properties within the 300' radius were notified of the hearing and therefore, the application may be heard today. Mr. Romig reminded the Board that the minutes will need to reflect the correct legal description.

**Presentation:**

The applicant, **Danny Mitchell**, 4111 South Darlington, Suite 140, submitted a site plan (Exhibit C-1) and stated that the subject property is immediately east of the Tulsa Bible Church and is currently owned by PSO with a substation located on the subject property. The church is expanding and meets all of the requirements for parking, however, the continued growth necessitates two (2) services on Sunday morning and there is an overlap in parking. The church anticipates future growth and need to solve a current parking need, but not a requirement. He explained that PSO has indicated they have to enlarge the sub-station and will need to move east. The Church had purchased property east of PSO and swapped the land with PSO in order to have the 100' of the subject property. He explained that the subject property does abut the existing church property and parking areas. The zoning requirements for landscaping have been met. The property drains primarily north to 61st Street and there were drainage inlets installed when 61st Street was widened.

**Comments and Questions:**

Mr. Dunham asked the applicant if he had a problem with a tie agreement being required? He stated he would not have a problem with a tie agreement.

**Protestants:**

**Dr. Barbara Hewitt**, 8819 East 62nd Street, stated she is representing her two neighbors as well as herself. Dr. Hewitt explained that the three homes encompass the major perimeter of the parking lot on the south side. Dr. Hewitt indicated that she and her neighbors have a lack of privacy, due to their property being lower than the church parking lot. She explained that the parking lot does drain toward 61st Street, however, there is a swale between her lot and the parking lot area and therefore her 6' privacy fence is not sufficient to provide privacy. Dr. Hewitt submitted photographs that were taken on Sunday morning (Exhibit C-2). After a lengthy discussion of the submitted photographs the following concerns were pointed out: Noise from the Basketball Court, drainage problems, lack of privacy during the two services each Sunday and lack of maintenance on the church grounds next to Dr. Hewitt's fence. She requested that french drains be installed and possibly the church could install a 9' or 10' privacy fence.

**Comments and Questions:**

Mr. White asked the applicant if the swale drains to the east or the west? She stated that some of the drainage stands and the church has graveled the subject site, which they are already using for parking. She indicated that she does not know which way the swale drains.

**Applicant's Rebuttal:**

**Mr. Mitchell** stated he did meet with Dr. Hewitt and since their meeting there have been some spot surveys conducted. He agreed that Dr. Hewitt's 6' privacy fence is in a hole and does not provide screening. He indicated that in order to provide screening for the residents abutting the parking area it would take a fence in excess of 6'. Mr. Mitchell stated that to address the drainage issues, Storm Water Management with the City of Tulsa will assure everyone that water does not drain onto adjacent properties. He commented that Tulsa Storm Water Management requires engineering studies to show where the water is going and how it is being taken off of the property. The surveys indicate that the water drains to the east. He indicated that the low spot is most severe behind Dr. Hewitt's house. He suggested that more studies be conducted and shoot more grades across the back of the lots. He agreed that the neighbors should have their privacy and would like to work with the neighbors to insure that they gain the privacy they should have.



**Comments and Questions:**

Ms. Turnbo asked the applicant if the church has worked out a maintenance with their church? He stated that once the subject property falls under the jurisdiction of the church there will be a more stringent maintenance program. He suggested that if the neighbors feel that the maintenance is not being done properly, they should call the church.

Ms. Turnbo asked the applicant if he would have a problem with moving the basketball court closer to the church and remove the noise from the neighbors? He stated that the church could find another location.

Mr. Bolzle stated that the existing church is under a PUD and would it not be appropriate that the PUD be modified to take in this additional parking? He asked if a PUD would be the proper place for the drainage, fencing and landscaping issues to be addressed? Mr. Stump stated that with a tract this small the three months that is involved with a PUD is probably not worth the return to the City because the Board can place similar conditions. The PUD would not deal with the drainage issues any more than the Board would because they would refer it back to Public Works Department.

Ms. Turnbo asked the applicant if he would be willing to meet with Ms. Hewitt again if the Board required that he return with a detailed site plan at a future hearing? He stated that the church would have no problem meeting with Ms. Hewitt and the neighbors. He indicated that he would not only meet with the neighbors, but also bring comments of the neighbors back with the detailed site plan.

In response to Mr. White, Dr. Hewitt stated that she is not comfortable with anything being approved until there is a detailed sit plan. She commented that she is willing to come to another hearing to make sure that all of the issues have been addressed.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **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**; subject to a tie contract; subject to the applicant returning with a detailed site plan, a storm water management report, a report on the height of the fence along the subject property and a site where the basketball court will be moved; subject to the church meeting with the neighbors before returning with a detailed site plan and providing the input from the neighbors;

Case No. 17792 (continued)

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:

A part of the NE/4, NW/4, Sec. 1, T-18-N, R-13-E, IBM, Tulsa County, Oklahoma, being more particularly described as follows, to wit: Beg. at the NW/c; thence S89°56'00"E for 175.00', to the POB; thence S0°05'51"W for 500'; thence S89°56'00"E for 100'; thence S0°05'51"W for 500'; thence N89°56'00"W for 100' to the POB, City of Tulsa, Tulsa County, Oklahoma.

**Board Action:**

On **AMENDED MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to add to the previous **APPROVAL** a **Variance** of the required 200' lot width requirements. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS.**

**Case No. 17796**

**Action Requested:**

Special Exception to allow a photography studio as a home occupation in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11, located 1611 South Elwood.

**Presentation:**

The applicant, **Andy Leithner**, 1611 South Elwood Avenue, submitted letters of support (Exhibit D-1) and photographs (Exhibit D-2). Mr. Leithner stated that the general use of the house is to raise his family and operate a small in-home photography business. He explained that the majority of his business is done outside of the home on location. He commented that the business will not be intrusive to the home or neighborhood. Mr. Leithner explained that there is a small amount of portrait work in the studio, however the majority of the business would be bookkeeping, clients picking up proofs and photographs. He stated that his business is by appointment only and he does not advertise his address in the phone book. The appointments are staggered so that no more than one client will be picking up proofs or photographs.

**Comments and Questions:**

Ms. Turnbo asked the applicant how many cars he owned, Mr. Liethner stated he owned two (2) cars.

Case No. 17796 (continued)

Ms. Turnbo asked the applicant if he had a driveway to his home? He stated he does not have a driveway, but he parks in the alley where there is a garage available.

In response to Ms. Turnbo, Mr. Leithner stated he has approximately two (2) to three (3) customers a day. He explained that there is a three (3) car garage in the alley and there is room for five (5) cars if parked correctly. He stated that his clients come by for approximately 15 minutes and the appointments will be staggered.

**Interested Parties:**

**Cliff Michaels** stated he is the joint owner of the property located at 1625 South Elwood. Mr. Michaels concluded that he is in favor of the proposal and welcomes the Leithners to the neighborhood.

**Robin Bohls**, 4221 South Rockford, stated that the Leithners have been her neighbors for seven (7) years and they have been the best neighbors she has ever had. Ms. Bohls commented that there have never been any problems with parking or traffic in the neighborhood. She concluded that she will miss having the Leithners for neighbors because they were assets to the neighborhood.

**Anton Bringman**, 1717 South Elwood, stated he is in favor of the Leithner's request. He commented that it will be good for the City of Tulsa to eliminate a commuter off the streets and pollution problems during the day. He stated by having someone home during the day can keep an eye on any potential crime problems in the neighborhood. Mr. Bringman requested the Board to approve the Leithner's application.

**Comments and Questions:**

Mr. Dunham asked the applicant what the hours of operation will be for the business? He stated that 12:00 noon to 6:00 p.m. weekdays. He explained that on weekends he is usually photographing weddings on site.

In response to Ms. Turnbo, Mr. Leithner stated that he has two parking spaces available in the alley and the attorney behind his home has offered his parking lot for the evening hours if needed.

Ms. Turnbo asked the applicant to state his hours of operation so they can be in the record? Mr. Leithner stated that Monday through Friday, 10:00 a.m. to 8:00 p.m.; Saturdays, 8:00 a.m. to 1:00 p.m.; Sunday, 1:00 p.m. to 3:00 p.m.

Case No. 17796 (continued)

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow a photography studio as a home occupation in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11; per plan submitted; subject to the following conditions: weekday hours 10:00 a.m. to 8:00 p.m., Saturday 8:00 a.m. to 1:00 p.m., Sunday 1:00 p.m. to 3:00 p.m.; limited to 5 appointments per day; 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 21, Block 5, Stonebraker Heights, City of Tulsa, Tulsa County, Oklahoma

**Case No. 17801**

**Action Requested:**

Variance to allow parking in the required front yard. **SECTION 1202.C.5.b. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Use Conditions, located 6621 East Latimer Place.

**Presentation:**

The applicant, **Byron D. Salsman**, representing Greater Heights Church, submitted a site plan (Exhibit E-1) and stated it was his understanding that everything had been approved. He explained that a question came up whether the landscaping plan would alter the site plan. In order to have the required number of trees to meet the landscaping ordinance he will lose six (6) parking spaces. According to his consultants, he has the right number of required parking spaces for a new sanctuary. Mr. Salsman asked for a clarification on when the three (3) year limit commences on the gravel parking lot?

**Comments and Questions:**

Mr. White explained that the three (3) year limit on the gravel parking lot commences on the date of the meeting it was approved.

**After a lengthy discussion the Board decided that the applicant needed to submit a detailed site plan and landscaping plan before taking any action.**

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17801 to September 23, 1997, at 1:00 p.m. to enable the applicant to prepare a detailed site plan.

Case No. 17801 (continued)

**Comments and Questions:**

In response to Mr. White, Mr. Salsman stated he did not understand why the application was being continued.

Mr. Beach informed the applicant to submit a detailed site plan one (1) week before the September 23, 1997, meeting.

**NEW APPLICATIONS**

**Case No. 17809**

**Action Requested:**

Special Exception to allow a home occupation providing internet service. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11 and a Variance of Home Occupation requirements to permit part-time temporary employees and to permit the use of 1010 SF of floor area instead of the maximum of 500 SF. **SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, located: 1350 North 75th East Avenue.

**Presentation:**

The applicant, **Robert H. Tips**, 525 South Main, Suite 1111, representing Michael & Kathryn Lester, Galaxy Star Systems, stated that his clients have live in the subject location and have utilized the subject property to provide internet services since 1977. Mr. Tips indicated that when the internet service was started in 1977, there were no maximum requirements on square footage under the ordinances for Home Occupations. He stated that his client does not have a temporary employee at this time, but needs someone to answer the phone when his phone system overloads.

**Comments and Questions:**

Mr. Romig explained to the Board and the applicant that the Code sets minimum standards to be met for Home Occupations, once you get outside the minimum standards, than it is close to a full business. The applicant will have to meet the criteria for a variance, which has to do with the property itself and not the business. He commented that it becomes an impossibility to meet the terms of the variance requirements for hiring a part-time employee for a Home Occupation.

**Protestants:**

**Debbie Summers**, 1354 North 75th East Avenue, submitted a petition (Exhibit F-2) and stated that she opposes this application because of the traffic problems in the neighborhood. She commented that by granting more use of their home and employees will contribute to more traffic problems. She indicated that the applicant does not work with the neighbors and that the application would not be in the best interest of the neighborhood.

**Robert Clark**, 1353 North 75th East Avenue, stated that he has known Mr. Lester for a long time and he has been a good neighbor. He expressed concerns with part-time employees for the internet service and the expansion of the internet service. Mr. Clark stated the neighborhood may start having problems in the future with congestion of traffic. He explained that the street is short and it is already heavily traveled. He commented that the internet service should be in a business zoned area and not a residence.

**Leroy Phillips**, 1390 North 75th East Avenue, expressed the same concerns as the prior protestants in regard to traffic. He agreed that the internet service should move to a business district or an office district.

**Interested Parties:**

**Mike Lester**, 1350 North 75th East Avenue, owner of the subject business, stated that he is the sole owner of the State's largest privately owned, publicly accessible network. He explained that running an internet service does not entail a lot of traffic like a daycare center would create. He stated that the business is served primarily with fax machines, telephone lines, taking orders and signing people up for the internet service. The computer network does not require a physical presence and the business has been in operation for many years. He indicated that Ms. Summers operates a home daycare for the last four (4) months and generates more car traffic than the internet service.

**Comments and Questions:**

Mr. Bolzle asked Mr. Lester if there is a satellite dish or antenna in the front yard, which is related to the internet service? He stated that the antenna was being assembled in the front yard and will later be installed on the roof. The antenna will be related to the internet service.

In response to Mr. Bolzle, Mr. Lester stated that the antenna is much like the antennas used by Heartland Wireless Cable. The antenna is 18" long and is mounted on a pole about the size of a broomstick.

Case No. 17809 (continued)

Mr. Bolzle asked Mr. Lester to explain the nature of the equipment related to being an internet provider? He stated that he has the general office equipment, copier, three (3) personal computers used for billing and administration and a telephone system for taking orders.

In response to Mr. Bolzle, Mr. Lester stated that the three (3) personal computers are used by himself, his wife and one available for a temporary worker. He explained that the internet server is not in the same room as the one used for the office. He indicated that the house is in excess of 1800 SF. He stated that 1010 SF of the home is dedicated to sales and the UNIX Server for access. Mr. Lester reiterated that the internet service does not require a physical presence of a person coming to the home for service. He explained that occasionally someone may come by to pay their bill, but he does not advertise his address in the phone book. He commented that he really does not want anyone coming to his house.

**Applicant's Rebuttal:**

**Robert Tips** stated that he thought Mr. Lester may be grandfathered in since the business was operational since 1977 and the ordinance was not passed until after 1991. He commented that Ms. Summers has a daycare center in her home and has up to 14 cars a day coming and going.

**Comments and Questions:**

Mr. Stump stated that regarding the existing non-conformity, in 1977 the applicant needed a special exception to conduct a home occupation and it was not detained. The business has been illegal since 1977.

Mr. Dunham stated he does not have a problem with a home occupation subject to home occupation guidelines.

**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 Special Exception** to allow a home occupation providing internet service. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 11, finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code,

**AND**

Case No. 17809 (continued)

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **DENY** a **Variance** of Home Occupation requirements to permit part-time temporary employees and to permit the use of 1010 SF of floor area instead of the maximum of 500 SF. **SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS;** 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 16, Block 8, Annahlee Heights, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17810**

**Action Requested:**

Special Exception to permit a mobile home in an RM-1 district and a Variance of 1 year time limit. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 5th & South 47th West Avenue.

**Presentation:**

The applicant, **Steven F. Burley**, 1615 South 116th East Avenue, submitted a site plan (Exhibit G-1) and photographs (Exhibit G-2). Mr. Burley stated that his son would like to place a mobile home on the subject lot, which is in a low income neighborhood. He indicated that there are five (5) mobile homes in the area. He commented that the neighborhood is somewhat of a slum area and the mobile home will not depreciate the neighborhood, but increase the value. He explained that on this one block there are 22 lots and seven (7) are empty lots.

**Comments and Questions:**

Ms. Turnbo asked the applicant if the mobile home is intended to be a permanent home? He answered affirmatively.

**Protestants:**

**Kathryn Calvert**, 633 North Union Place, stated that she owns several of the empty lots in the subject area. Since the closing of National Tank the neighborhood has gone down and the remaining neighbors have tried to maintain the subject area. She stated that she cannot sell her property and doubts if she ever will be able to sell the empty lots if mobile homes are moved in. Ms. Calvert commented that the subject area is not a slum area and the residents work hard at keeping their lots maintained. She stated she fears that if mobile homes move into the subject area her property will decrease even further in value. She explained that she no longer lives in the area, but she does keep her empty lots mowed and she is unaware of any mobile homes west of 41st Street. Ms. Calvert concluded that having the mobile home on the subject property will not improve the area and will hinder selling the empty lots.



Case No. 17810 (continued)

**Ed Stromeyer**, Chelsea, OK, stated he owns the house immediately south of the subject property. He informed the Board that there are no mobile homes in the immediate area and this would set a precedent. He expressed concerns that the proposed mobile home will reduce the value of his home.

**Applicant's Rebuttal:**

**Mr. Burley** stated that he owns two lots in the proposed area. He reiterated that there are mobile homes in the area. He indicated that the lot he is proposing is located at West 5th and 47th. He stated that there are mobile homes located at West 5th and 39th, 38th and 40th Street. He reminded the Board that he submitted photographs of the five (5) mobile homes with the addresses on the back of the photographs.

**Comments and Questions:**

Mr. Bolzle asked the staff if the subject area is part of the Charles Page Redevelopment Area? Ms. Matthews stated that Urban Development Department Staff has been working with a group in the area and this is part of the study area.

Mr. White stated that he drove through the subject area and he did not see any mobile homes in the immediate area. He indicated that the mobile homes the applicant mentioned are seven (7) to nine (9) blocks east of the subject area. Mr. White concluded that the subject area is a transition neighborhood and there are some homes that need work. He commented that there are some very nice homes and the homeowners have put forth a lot of effort in their homes. Mr. White stated that a mobile home in the immediate area would be inappropriate.

Ms. Turnbo agreed with Mr. White. She described the neighborhood as a fragile neighborhood that is hanging on and some of the neighbors have made a effort to improve their neighborhoods.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **DENY** a **Special Exception** to permit a mobile home in an RM-1 district and a Variance of 1 year time limit. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9; 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:

Verndale Addition, Block 10, Lot 1, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17811**

**Action Requested:**

Special Exception for Use Unit 2 (residential treatment center) in a RS-3 zoned district. **SECTION 404.E.1. SPECIAL EXCEPTION IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 3514 South Yale.

**Presentation:**

The applicant, **Cathy Grant**, represented by **Steve Schuller**, 320 South Boston, submitted a site plan (Exhibit H-1) and stated he is representing Christopher Youth Center, Inc. ("CYC"). Mr. Schuller informed the Board that CYC currently has three (3) residential centers in the City of Tulsa. The centers are located at 7th and Delaware, 15th Street & Broken Arrow Expressway and 35th Street between Harvard and Pittsburg Avenue. His client is moving out of the 7th and Delaware property due to the TU expansion. The center has been looking for a new site for the past two (2) to three (3) years. Mr. Schuller reminded the Board that they had granted the 35th Street CYC a special exception for a limited term of two (2) years in 1989 over considerable protest from the neighbors who were fearful of what might be located on the property and the operation of CYC. In 1991, when CYC returned to the Board for renewal of the special exception, all but one neighbor supported CYC and the minutes reflect petitions and letters of support that were submitted to the Board. He indicated that the neighbors found that the residents of CYC were well behaved, well supervised and the facility was well maintained. CYC is an experienced, proven organization, which has been in operation for 17 years. CYC provides homes for boys with emotional problems, which are victims of crimes and life's injustices. Mr. Schuller described the boys as troubled boys, but not boys who cause trouble. He explained that there are ten (10) boys proposed for the subject home, ranging in age seven (7) to seventeen (17). The boys are referred to CYC from all over the State of Oklahoma by the State Department of Humans Services ("DHS"), agencies and by community health centers around the State. The boys are assessed by the referring agencies as eligible for residential care. CYC is licensed by the DHS as a child placing agency and is accredited by the International Joint Commission on Accreditation on health care organizations, which is the same organization that accredits hospitals and home care facilities. He stated that the residents of CYC are supervised 24 hours a day and there are three (3) counselors present in each facility from 6:00 a.m. to 11:00 p.m. He explained that at night there is one counselor on duty from 11:00 p.m. to 6:00 a.m. and the counselor is awake at all times. There are trained therapists present from 9:00 a.m. to 6:00 p.m. and on call for the weekends. He indicated that the therapists have Masters Degrees in social work with the clinical specialty. The residents attend Tulsa Public Schools ("TPS"), but not necessarily in the neighborhood where each center is located. Mr. Schuller indicated that TPS has determined that the residents should attend schools all over the City. Most attend schools that offer special classes for students with emotional problems and learning disabilities. The residents of CYC belong to Boy Scout Troops, Salvation Army Boys Club and attend the same activities as other youngsters of the same age. Christopher Youth Center is not affiliated with

Case No. 17811 (continued)

any particular religious organization or group, however the residents are permitted to attend religious services of their choice. Mr. Schuller stated that CYC does not discriminate on the basis of race, color, national origin or handicap. He commented that abuse does not discriminate either and the residents of CYC have been abused at home. The average length of stay at CYC is one (1) year and when the resident leaves he returns to his own family, if the family has been rehabilitated, or with a relative, adopted family and foster family. Mr. Schuller reassured the Board that none of the residents have been adjudicated delinquent through the court system. The residents are taught respect and responsibility, self control, neatness and manners through a system of rewards for positive behavior and progress. The appearance of each of the existing facilities is the testimony of the manner in which the CYC are well maintained and good neighbors. Mr. Schuller submitted photographs of the subject property (Exhibit H-2) and stated that the subject property is screened from Yale Avenue by a thick hedge. He reminded the Board of a previous application that was denied for CYC and the Board's concerns with the application. He explained that CYC has gone to great lengths to locate property that addresses all of the Board's concerns that were voiced during the previous denied case. The subject property is more than one (1) full acre; the house has 6,000 SF; the subject property is located on an arterial street; the subject property only has access to Yale Avenue with a very large circular driveway and accessory driveways. There is no access from the subject property to the streets in the surrounding residential neighborhood. He indicated that the driveway has more than sufficient parking areas, including a four car garage on the side of the subject property. Mr. Schuller detailed the previous Board actions dealing with the subject property. He concluded that the subject property and the proposed use is in harmony with the spirit and intent of the Zoning Code. The subject property is ideally suited for this use because of its size, location and lack of access to the surrounding residential neighborhood. He stated that the proposed use will not be injurious to the neighborhood nor otherwise detrimental to the public welfare. Mr. Schuller requested the Board to grant the special exception requested by CYC.

**Comments and Questions:**

Ms. Turnbo asked the applicant if there will be regular hours for visitors or family to come to CYC? **Mr. Clay Langley**, Christopher Youth Center, 4012 East 35th Street, stated that there are opportunities for parents to visit and it is primarily on weekends. He explained that during the week there are some afternoon family therapy sessions. He stated that of the ten (10) residents that services are provided to, there may be an average of one (1) or two (2) families per week that visit on the subject property.

Case No. 17811 (continued)

Mr. Dunham asked the applicant if CYC planned to maintain the facility on 35th Street if this facility is approved? Mr. Langley stated that the facility will be maintained as it is currently operating. He explained that there will be a CYC on 15th Street, 35th Street, however it is the property on 7th and Delaware that CYC will be vacating due to the TU Expansion. The current proposal is an established program and CYC is not proposing a new start up program nor expanding.

In response to Mr. Dunham, Mr. Langley explained that the CYC home on 35th Street is approximately a half mile away. The home is 5,000 SF, which sets on 2 acres of land. He indicated that the 35th Street CYC home is surrounded by 23 single-family dwellings. Mr. Langley concluded that there are ten (10) boys in each of the three houses.

**Mr. White announced and recognized a letter of protest submitted (Exhibit H-3).**

**Protestants: The following protestants expressed the same concerns:**

**Marcus & Peggy Wright**, 3531 South Winston; **Margaret Parker**, 3350 South Allegheny; **David Schultz**, 3564 South Winston, submitted a petition (Exhibit H-4); **Becky McCracken**, 4828 East 35th Street; **Gregory Falconetti**, 3570 South Winston; **Susan Little**, 3360 South Allegheny Avenue; **Marjorie Honeyman**, 4828 East 35th Court.

**The following concerns were expressed by the above protestants:**

The subject property is not accessible by north bound traffic on Yale Avenue and traffic has to go through the neighborhood to reach the property; security for the neighborhood and children; privacy fences do not screen adequately because of the topography of the property; property value decreasing; CYC is for profit organization; two facilities in the neighborhood; zoned RS and not business; vandalism; lack of supervision; noise level; pool on subject property too close to the fence; talked with residences at other CYC locations and found that there are problems with supervision; runaways; residents scaling the fence; staff is not required to have a college degree and often staff does not have a degree; concerns with CYC residents, with developmental disabilities, living on a street as busy as Yale Avenue; non-locked down facility; aggressive behavior; CYC residents on Ritalin, Thorazine, high blood pressure medication, anti-psychotic drugs; added traffic to the subject area.

**Applicant's Rebuttal:**

**Mr. Schuller** stated that in most of the incidences that the protestants mention, the CYC residents were not tied to the incident. He commented that there are not many residential properties in Tulsa that will meet this Board's concerns where facilities of this type should be located. The Board was very clear with the previous case where facilities of this type should be located. He stated that the Board was very clear on what the applicant was to look for when locating this kind of facility. He commented

his client has found the kind of facility that the Board has indicated his client should find. Mr. Schuller stated that if people go through the interior streets because of difficulties with medians, that is just something that has to be contended with. He reminded the Board that every time the Board has approved Use Unit 2 use for the subject property, it has been because the type of use has been specifically found not to be detrimental to the neighborhood. The CYC residents are supervised and are taken out of homes because the homes they are in have problems. The CYC residents have been abused by their families and are returned after the family has undergone sufficient counseling to warrant the CYC residents return. Mr. Schuller clarified that he did not indicate that the staff members all have Masters Degrees, but that the therapists have Masters Degrees. He explained that the facility is needed for the community and is well suited to the subject property. He stated that the subject property is the type of property that the Board has told his client to look for and the special exception should be granted.

**Comments and Questions:**

Mr. Bolzle asked the applicant how many automobile or bus trips will be made at the subject property on any given day? Clay Langley stated that there will be three (3) guidance counselors, a therapist and periodic family therapy sessions. He indicated that there is an average of five (5) to six (6) vehicles coming and going from the subject property. He explained that the residents ride school buses to school and there is an average of four (4) school buses.

In response to Mr. Bolzle, Mr. Langley stated that the school bus comes specifically to the subject property to pick up the boys for school. He further stated that the school buses will use the circular drive that is already in existence.

Mr. Bolzle asked the applicant to explain the nature of the outdoor activities, hours of operation and the level of supervision for outdoor activities? Mr. Langley stated that any time the boys are in the home and awake, there are three (3) guidance counselors on duty for ten (10) boys. He explained that currently the average age of the guidance counselors is 35 years of age and the minimum hiring age is 28 years of age. The outdoor activities consist of swimming, basketball, football, etc. He stated that when the residents are outside they are expected to be under supervision, but that doesn't always mean the counselor is within an arms reach. He explained that supervision could mean that the residents can be seen through a window or are immediately available. The activities frequently take place in City Parks, Salvation Army Boys Club, local gymnasiums, Big Splash, skating rinks, bowling alleys, etc. CYC tries to move six (6) of the boys off the property every afternoon after school for recreational activities. The remaining residents will have therapeutic activities. Mr. Langley stated that during the weekends the CYC residents clean the house in the a.m. and in the afternoon the houses are empty and the residents are engaged in

Case No. 17811 (continued)

recreational activities. The routine bedtime for the residents is 8:00 p.m. with an overnight staff member for supervision.

Mr. Bolzle asked the applicant if there would be a limit on the outdoor activities and the times it is allowed? He stated that the residents are always in before dark.

Mr. Bolzle asked the applicant to explain the controls as to how the CYC residents enter and leave the facility? Mr. Langley indicated that the limitations are provided by staff supervision and there are instances where the residents run away. Mr. Langley stated that the policy indicates that they are to be followed by a staff member, but not chased. He explained that they do not want to entice a resident to run out into a busy street. He stated that usually the resident realizes that they are not being chased and stops to talk with the counselor.

Mr. Bolzle asked the applicant if the residents can leave through any of the exits from the backyard at anytime? Mr. Langley stated that on the subject property there is one gate, which can be locked and he will insure it will be locked. The only entrance or exit is out the front door.

Mr. Bolzle asked the applicant if there is any reason why CYC would not want to control the residents with only one exit? He answered negatively.

In response to Mr. Bolzle, Mr. Langley stated that each facility operates independently of the other CYC facilities. Occasionally a resident may be moved to a different CYC facility due to peer pressure.

In response to Mr. White, Mr. Langley informed the Board that CYC has been at the 7th Street location for 17 years, 15th Street location 11 years and the 35th Street location for 8 years. He commented that it speaks highly of the organization that there are neighbors less than four (4) blocks away that did not know they were there. He explained that there are no signs and the homes are for the residents to live in until they are able to return to their families. He stated that CYC runs a very low profile and would like to keep the children's privacy protected. He informed the Board that if the facilities were a danger to the neighborhoods, you would hear about it in the newspapers. He commented that CYC is not in the news and they are not a detriment to the neighborhood.

Ms. Turnbo asked the applicant if the older boys are allowed to go to the Junior High and High School evening activities? Mr. Langley stated that the boys living at CYC must be under their supervision at all times, unless they are under the direct supervision of TPS. The residents do attend dances and games, but they are supervised by a staff member who volunteers during their off time.

Case No. 17811 (continued)

Mr. Bolzle stated that the only real concern is the proximity to the 35th Street facility already in existence. He commented that the concerns of the neighbors are valid and their concerns would be shared by any neighborhood where this facility is proposed. The Code provides and the Federal Government encourages the location of these types of facilities in residential neighborhoods, when they can be made appropriate. He concluded that this is an appropriate location except for the proximity of the existing CYC facility on 35th Street.

Ms. Turnbo commented that the location has met what the Board has said in past cases. She explained that she is concerned that this will be the second facility in the neighborhood. She stated that the Code allows a minimum 1/4 mile between the two facilities and there is approximately 1/2 mile between the proposed location and the 35th Street facility.

Mr. Bolzle stated he is compelled to make a statement because of Mr. Schuller's statements. Mr. Bolzle informed the applicant that the Board did not direct CYC to seek a location that met any criteria. The Board responded to an application that was being heard and cited concerns that the Board had. The Board's concerns cited during a hearing of an application should never be construed as a direction or directive to an applicant to seek a location that meets those concerns with the feeling that the Board would automatically approve the application. Each individual case has its own merits and the Board has to look at each case individually. Mr. Bolzle stated he would counter Mr. Schuller's suggestion that the Board somehow encouraged him to seek a location that met criteria that the Board had previously set out. That was not the intent and not the case.

**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** for Use Unit 2 (residential treatment center) in a RS-3 zoned district. **SECTION 404.E.1. SPECIAL EXCEPTION IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, per plan submitted; subject to the property be so secured so there is a central access and control point for activities in the house and in the backyard, so the staff can be aware of the comings and goings of the residents, and so that there not be free access from any point in the house or the backyard except for the requirements of the fire code and other codes; that there be no outdoor activities after dark; subject to the installation of an 8' fence along the northwest and south boundaries of the property with the pickets on the inside of the fence; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Case No. 17811 (continued)

Prt SE, NE, Beg. NE/c, N/2, S/2, SE, NE, then W 280', S 195.11', E 280', N 195.11', POB less E 50', Sec. 21, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17812**

**Action Requested:**

Variance of the required 30' of frontage on a public street or dedicated right-of-way in an RS-1 district to permit a lot split. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6 and a Variance of average lot width requirement. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 4636 South Evanston.

**Presentation:**

The applicant, **James McLean**, 1402 West James, Enid, 73101, representing his mother who is the subject property owner, submitted a site plan (Exhibit I-1) and stated that his mother has owned the subject property for 38 years. He explained that the subject parcel is oversized for an RS-1 district. It is nearly 127% of the average size lot in the neighborhood. He stated the variance will allow his mother to market the additional lot space. Mr. McLean indicated that within three (3) or four (4) blocks there are three examples where the lots were split in a similar fashion.

**Comments and Questions:**

Mr. White asked the applicant if the similar lot splits are in the same neighborhood? He indicated that the splits have been at 4900 block of South Columbia and 2800 block of 49th Street.

Mr. McLean stated that the subject lot has an average width of only 99' before the lot split.

In response to Mr. Bolzle, Mr. Stump stated that if the applicant had given 30' of frontage and had a panhandle neither lot would meet the minimum lot width. If the applicant did not give the panhandle the rear lot would have substandard lot width.

Mr. White asked the applicant to state his hardship in order to grant a variance. Mr. McLean stated that without the variance there would be no way to access the proposed lot.

**Protestants:**

**Steven Allen**, 4641 South Delaware, stated he did not see how the lot could be split and provide an attractive lot for development. He expressed concerns that the lot split would affect the property values in a negative fashion. Mr. Allen concluded that due to the closeness of his lot he is opposed to this application.



Case No. 17812 (continued)

**The following expressed the same concerns as the above protestant:**

**Paul Keeling, 4625 South Delaware, Ann Pitcher, 4640 South Delaware.**

**Comments and Questions:**

Mr. Bolzle asked the Board if they saw anything unique about the subject lot that is not shared by at least 40 other lots in the same area? The Board answered negatively.

Mr. Bolzle asked the Board if they agree that to allow lot splits on all of the lots in this neighborhood would be detrimental? The Board agreed that it would be detrimental to allow lot splits in the subject neighborhood.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **DENY** Variance of the required 30' of frontage on a public street or dedicated right-of-way in an RS-1 district to permit a lot split. **SECTION 206. STREET FRONTAGE REQUIRED** - Use Unit 6 and a Variance of average lot width requirement. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, 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:

Tract A: W 135.0' of the following described tract of land: Prt S/2, Lot 5, Claypool Subdivision more particularly described as follows: Beg. 106 2/3' S of N line, S/2; thence S 103'; thence NW on a diagonal line 310' to the W boundary line; thence N 95'; thence E to the POB, Tulsa County, Oklahoma, according to the Recorded Plat thereof, TOGETHER with a 15' access easement across the N 15' of the E 175' of the above described land; Tract B: Prt of the S/2, Lot 5, Claypool Subdivision, more particularly described as follows; Beg. 106 2/3' S of N line of the S/2; thence S 103'; thence NW on a diagonal line 310' to the W boundary line; thence N 95'; thence E to the POB, Tulsa County, Oklahoma, according to the recorded plat thereof, LESS AND EXCEPT the W 135.0' thereof and known as 4636 S. Evanston Ave, subject to a 15' access easement across the N 15' of said tract of land, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17813**

**Action Requested:**

Special Exception to permit a real estate office as a home occupation. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** Use Unit 11, located 3232 South Utica.

**Presentation:**

The applicant, **Stan Frisbie**, 3232 South Utica, submitted a site plan (Exhibit J-1) and stated that he has been in commercial real estate for 20 years. He explained that the majority of his business is done by phone, Federal Express and fax machines. He indicated that he does not have any employees and that he is at a stage in life where he is trying to slow down his business.

**Comments and Questions:**

Mr. Dunham asked the applicant if he is familiar with the Home Occupation guidelines? He stated he is aware of the Home Occupation guidelines and will abide by the restrictions and regulations.

**Protestants:**

**Blair Brockman**, 3231 South Utica, stated she opposes the application because Utica is a busy street and having a commercial real estate business will set a precedent for other businesses to move in. She explained that there is a vacant house to the south of the subject property and she fears that another business would move in if this application is allowed. She expressed concerns of parking and increased traffic. Ms. Brockman stated that the subject area is Historical and she fears that the home business will change the characteristics of the neighborhood. Ms. Brockman indicated that some of her neighbors do have home offices, however they do not advertise their address and no one comes to their homes in connection with the business. She questioned if Mr. Frisbie will expand into the vacated home next door?

**Dick Warner**, 3168 South Rockford, representing the Tulsa Historical Society ("THS"), stated he has no complaints with Mr. Frisbie's application since he is south of the Perryman Cemetery. Mr. Warner commented that he would like to have a statement recorded for the record: When Tulsa Historical Society acquired the Perryman Cemetery by gift from the Perryman Family, THS was told by members of the family that there are plots outside of the cemetery on the land surrounding the cemetery. He explained that THS does not know exactly where the plots are, but THS does know the names of two (2) of the people who are buried north of the cemetery, between the cemetery and 31st Street. If the Board should have questions with regard to the land surrounding the Perryman Cemetery, please remember that there are graves on the surrounding property.

**Applicant's Rebuttal:**

**Mr. Frisbie** stated that he does not advertise his address in the phone book and he will use a post office box in the Utica Square Shopping Center. He indicated that it is not his intention to have people come to his home and damage the value of his residence.

Case No. 17813 (continued)

**Comments and Questions:**

Mr. Dunham stated that he is familiar with Mr. Frisbie's operation and does not see how it would have any impact on the neighborhood. He is a sole operator and he does not have people come to his business. Mr. Dunham commented that there is no danger of this business expanding and he would not mind having Mr. Frisbie next door to his house.

**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 real estate office as a home occupation. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** Use Unit 11; 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:

- Lot 2, Block 1, Turner Terrace, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17814**

**Action Requested:**

Variance of setback from E. 30th ST. S. from 15' to 10' to allow construction of a covered porch and a Variance of setback from E. 30th St. S. from 20' to 7' to allow enclosing a non-conforming carport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2946 South Quaker.

**Presentation:**

The applicant, **Mark N. Wood**, 2946 South Quaker, submitted a site plan (Exhibit K-1) and photographs (Exhibit K-2). Mr. Wood stated that he does not have any knowledge when the existing carport was constructed. He explained that he and his wife recently purchased the subject property. He stated that recently he was in the attic space of the carport and noticed that the original roofing was wood shingle and had at least three (3) layers of asphalt shingles on top of the wood shingles. He commented that he suspects the carport was built prior to 1970, which is when the existing zoning came into affect. Mr. Wood stated that the encroachment relative to the porch is 5' and not 10' as he had indicated in his request. He stated his hardship is that the lot is zoned RS-1 but it is only 75' wide and is on a corner. He commented that there are two (2) houses on the 2900 block and 3000 block of South Quaker. The two (2) houses that he is speaking of are the subject property and one across the street. Both homes have garage and/or carport access from 30th Street and are the

Case No. 17814 (continued)

only lots like this in the area. He does not have access from Quaker because of the way the homes were developed. He explained that currently there is no direct access to the carport and part of the proposed design is to create access directly into the house. He indicated that there are no sidewalks in the subject area. Mr. Wood concluded that he has discussed his plans with the neighbors and the neighbors seem to be supportive.

**Comments and Questions:**

Mr. Dunham stated that the hardship for the applicant is the size of the lot as he mentioned in his presentation.

**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** of setback from E. 30th ST. S. from 15' to 10' to allow construction of a covered porch and a **Variance** of setback from E. 30th St. S. from 20' to 7' to allow enclosing a non-conforming carport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the lot is an irregular size; finding that the requirements for a variance in Sec. 1607.C. have been met.

**Board Action:**

On **AMENDED MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of setback from E. 30th ST. S. from 15' to 10' to allow construction of a covered porch and a **Variance** of setback from E. 30th St. S. from 20' to 7' to allow enclosing a non-conforming carport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that the lot is an irregular size; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

S 6' of Lot 8, and all of Lot 9, Block 2, Amended plat of Lorraine Terrace, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17815**

**Action Requested:**

Variance of required setback from N. King St from 25' to 0' to permit construction of a new shop. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25, located 1002 North Victor.

Case No. 17815 (continued)

**Presentation:**

The applicant, **Mary Womble**, represented by **Danny Mitchell**, 4111 South Darlington, Suite 140, submitted a site plan (Exhibit L-1) and stated that his client has to relocate and would like to build on the subject property. He explained that the nature of his client's business involves very large equipment and the variance request is to allow adequate circulation inside the building in order to get around the equipment. The properties to the west and east of the subject location extend out to the lot lines. He commented that his client is not asking for something unusual for the subject area.

**Comments and Questions:**

Mr. White asked the applicant if his client owns the property to the east? Mr. Mitchell stated that his client owns the lot immediately to the north of the subject property.

**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** of required setback from N. King St from 25' to 0' to permit construction of a new shop. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 25; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lots 5 & 6, Block 3, Auto Heights Addition, City of Tulsa, Tulsa County, Oklahoma

**Case No. 17816**

**Action Requested:**

Special Exception to permit church use. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 2; a Variance of required parking from 183 to 87. **SECTION 1202.D. USE UNIT 2 AREA-WIDE SPECIAL EXCEPTION USES** and a Variance to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. GENERAL REQUIREMENTS**, located 1101 East Apache.

**Presentation:**

The applicant, **Alvin L. McCreary**, represented by **Jim Doherty**, 616 South Boston, submitted a site plan (Exhibit M-1).

Case No. 17816 (continued)

**Comments and Questions:**

After the presentation and discussion it was determined that the applicant was including existing parking in the street right-of-way for required parking. Mr. Stump informed the applicant that he cannot include the existing parking in the street right-of-way as required parking because it is in the City right-of-way. Mr. Stump further informed the applicant that the site plan submitted does not meet the requirements of the landscape ordinance. The Board determined that the applicant should continue his case and re-advertise for the proper amount of relief for the parking requirement.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17816 to October 14, 1997, at 1:00 p.m. to enable the applicant to re-advertise.

**Case No. 17817**

**Action Requested:**

Special Exception to waive the screening requirement along the E. property line. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES**, located NE/c 45th Street & South Harvard.

**Presentation:**

The applicant, **Kent Shacklett, DDS**, 3305 East 45th Street, submitted a site plan (Exhibit N-1) and stated he converted a house into an office at the subject location. He explained that his neighbor to the east, where the screening fence is required, requested that he not install a privacy fence but rather a two (2) rail fence. He stated that the east side is not the back of a building and there are no dumpsters stored on the east side. Dr. Shacklett indicated that his neighbor does not want a privacy fence because the leaves would blow into her yard and two (2) of her trees would have to be cut down to install the fence. He commented that his neighbor is not physically able to clean the leaves up that would collect next to the privacy fence. Dr. Shacklett submitted photographs (Exhibit N-3) and a letter of support (Exhibit N-2).

**Interested Parties:**

**Ken Schaffer**, 3312 East 45th Street, stated that when he moved into his home in 1992, the subject property was a run-down residence. He commented he appreciated Dr. Schacklett for purchasing the property and having it rezoned office and medical. Mr. Schaffer expressed concerns that Dr. Shacklett has not followed the Codes, which protect the residents from the commercial encroachment. He indicated that the neighbor who claims she cannot clean up the leaves, has two (2) children in her home that could assist with the clean up. He stated that other commercial property between the residences along Harvard have the 6' screening fence installed.

Case No. 17817 (continued)

**Applicant's Rebuttal:**

Dr. Shacklett stated that he is willing to install a 6' privacy fence if the Board requires him to do so. He reiterated that his neighbor does not want a 6' privacy fence. He explained that Mr. Schaffer does have the rear of a commercial building backing up to his property. He pointed out that the east side of the subject property is not the back of the property and is not offensive.

**Comments and Questions:**

Mr. Dunham stated that a 6' privacy fence will be offensive for the abutting property to the east.

**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 waive the screening requirement along the E. property line. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES**; 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 11, Block 1, Villa Grove Heights, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17818**

**Action Requested:**

Variance of required side yard from 5' to 1' to permit an addition to an existing nonconforming structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, a Variance of required side yard from 3' to 1' to permit a new detached garage. **SECTION 402.B.1.c. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6 and a Variance of the maximum allowable coverage of 20% of the required rear yard by a detached accessory building to 24.4%. **SECTION 210.B.5. YARDS**, located 3631 South Yorktown.

**Presentation:**

The applicant, **George Hooper**, represented by **Robert Nichols**, 111 West 5th Street, submitted a site plan (Exhibit O-1), survey (Exhibit O-2) and photographs (Exhibit O-3). Mr. Nichols stated that the Hoopers are renovating their home, which was Mr. Hooper's boyhood home. The home was built in 1930, on a non-conforming lot (64' in an RS-2 zoned district). He explained that the current property has a one-car garage and has only three (3) off-site parking spaces available. He stated that the purpose of the application is to bring the subject property into conformity. He explained that by

granting the three variances, it will allow the construction of a two-car garage. This will also destroy a non-conforming one-car garage and replace it with a portico or drive-through to the two-car garage in the backyard. He stated that both structures would be built approximately 1' from the neighboring lot to the north. He indicated that the neighbor immediately to the north is supportive of this application. He commented that improvements on the subject lot and the adjacent lot will still be over 40' apart. He stated that the hardship is the narrowness of the lot and if the lot was a full 75' lot the application would be unnecessary.

**Comments and Questions:**

Mr. Bolzle asked the applicant why the garage could not be located so that it is 3' from the side yard? Mr. Nichols stated that to do so would require an additional curve in the drive in the back yard, which would locate the garage further into the middle of the back yard. The home is being expanded at the same time and an addition will be added to the home, which will make the home roughly 2500 SF or 2800 SF.

Mr. Bolzle asked the applicant if the variance for the attachment to the house is a carport? Mr. Nichols stated that there will be a portico on the side of the house. He explained that the portico will replace the single-car garage, which was 2'-8" from the property line. He stated that in order to physically move the cars and make the lot function it will need to be 1' from the property line.

Mr. Nichols stated that there is a problem with off-street parking at the subject location. He explained that there are no curbs and Yorktown is only 20' of paved road.

**Interested Parties:**

**George Daniel**, 3621 South Yorktown, stated he is Mr. Hooper's neighbor to the north and he is in support of this application. He reiterated that there are 35' to 40' between the lots.

**Comments and Questions:**

Ms. Turnbo stated that the lot creates a hardship due to its narrowness. She explained that after attending the Planner's Convention in San Diego, this is a typical example of how you save older neighborhoods that cannot meet today's standards.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 3-1-0 (Dunham, Turnbo, White, "aye"; Bolzle "nay" no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of required side yard from 5' to 1' to permit an addition to an existing nonconforming structure. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, a **Variance** of required side yard from 3' to 1' to permit a



Case No. 17818 (continued)

new detached garage. **SECTION 402.B.1.c. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6 and a **Variance** of the maximum allowable coverage of 20% of the required rear yard by a detached accessory building to 24.4%. **SECTION 210.B.5. YARDS**; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

S 64', Lot 2, Block 4, Highland Park Estates, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17820**

**Action Requested:**

Special Exception to amend a previously approved site plan to add an addition to the existing High School. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, and a Variance of required building setback from 55' to 48' from the centerline of W. 40th St. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located: 1919 West 40th.

**Presentation:**

The applicant, **Steve Brown**, 717 South Houston, Suite 200, representing Webster High School, submitted a site plan (Exhibit P-1) and stated that the building plans approved in April of 1997 haven been revised. He explained that the revision includes four (4) new toilet rooms with 16 fixtures, the new science laboratory was enlarged and an additional science laboratory added. There is a new state-wide curriculum change upcoming that will require graduating High School students to complete four (4) years of English, History, Math and Science. He explained that the school felt that an additional science laboratory was needed. Because the addition is larger, a new Administrative and Attendance Office is needed as well. The previously approved 9,400 SF addition grew to approximately 12,500 SF. The setbacks changed from 77' to 70'-3" from the centerline of Yukon and 68' to 48'-8" from the centerline of West 40th Street. Other sites were considered for the addition, but it was strongly felt that the new labs and classrooms are in an appropriate location because they are connected to existing classrooms and labs in the annex area. To the west of the existing annex there are six, 20 year old Memorial trees that the school did not want to remove.

**Comments and Questions:**

Mr. Bolzle asked the applicant for the amount of square footage that has been added since the first approval? Mr. Brown stated that approximately 3,000 SF has been added.

Case No. 17820 (continued)

Mr. Bolzle asked the applicant if there is an additional parking requirement for the additional 3,000 SF? He stated that there is an additional parking requirement and it has been accommodated. Mr. Brown indicated that 18 additional parking spaces will be required with the new addition and the new site plan provides 20 additional parking spaces.

In response to Mr. Bolzle, Mr. Brown stated that the new additional parking spaces shown by the field house were not on the previous site plan because they were not needed at that time.

**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 amend a previously approved site plan to add an addition to the existing High School. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, and a **Variance** of required building setback from 55' to 48' from the centerline of W. 40th St. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** 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:

Block 2, all of Blocks 3 & 4, Lots 8-27, Block 5, Clinton Homesites Addition to Redfork, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17821**

**Action Requested:**

Special Exception to modify a previously approved site plan, located 6140 South Lewis.

**Presentation:**

The applicant, **Brian L. Freese**, 5319 South Lewis, 74105, submitted a site plan (Exhibit Q-1) and stated the subject property is located at 6144 South Lewis, which is adjacent to the Liberty Bank Building. He indicated that he is seeking a change in the square footage from 5,000 SF, which was previously approved in an earlier PUD, to 9,700 SF. He explained that in 1996 a 5,000 SF building was approved and he is proposing an increase of approximately 4,700 SF. The existing dental office will have approximately 1900 SF added on. He explained that at the time of the 1996 hearing the owner did not assess his needs and then realized after the hearing that he would need additional square footage. Mr. Freese stated that his client discovered that he was under-utilizing his property and saw an opportunity to allow additional professional tenant space of 2800 SF. He indicated that the first floor will have approximately 7400 SF and the remainder of the square footage will be on the second

Case No. 17821 (continued)

floor. The permitting process has been started and all of the requirements have been met. He described the character of the building as residential and it has been kept intentionally both in scale and aesthetically residential to have an attractive appearance. He commented that the traffic will not change because of the additional square footage.

**Comments and Questions:**

Discussion regarding the parking requirements was not audible.

Mr. Bolzle commented that the applicant is using every SF of this site that is possible and his own experience with medical use is that the parking need is greater than the Code requires. He stated that legally the applicant meets the parking requirement. Mr. Bolzle commented that he felt that the proposal is a bad plan from a parking and traffic point of view only.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (Dunham, Turnbo, White, "aye"; Bolzle "nay" no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to modify a previously approved site plan; 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:

A tract of land that is part of Lots 5 & 6 Resubdivision of Lot 1, Pecan Acres, Tulsa County, Oklahoma, according to the recorded plat thereof, said tract of land being more particularly described as follows, to-wit: Beg. SE/c, said Lot 5, thence S 89°53'20" W for 537.80', SW/c, thence N 00°16'10" W along Wly line for 60.00', thence N 33°29'09" E along NWly line for 108.03' to the most Nly NW/c, thence N 89°53'20"E along the Nly line for 177.79', SW/c of said Lot 6, thence N 50°01'10" E along NWly line for 26.0', thence S 00°16'10" E for 136.67', thence N 89°53'20" E for 280.01', Ely line of Lot 5, Thence S 00°16'10" E for 30.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17822**

**Action Requested:**

Special Exception to permit Use Unit 2, off-street parking for University special events for 1997 and 1998 during construction of Convocation Center. Additional all-weather parking is now in design and construction with completion scheduled for late summer, 1998, and a Variance to permit special events parking within 50' of residentially zoned districts, located 600 South College Avenue.

Case No. 17822 (continued)

**Presentation:**

The applicant, **Sack & Associates**, represented by **Charles Norman**, 2900 Mid-Continent Tower, submitted a site plan (Exhibit R-1) and stated that TU pledged to the neighbors and the Board that they would submit a modification of parking plans. This proposal is to provide emergency parking during the 1997 and 1998 period, until the new convocation facility is completed. Mr. Norman indicated that the 300 additional parking spaces that were required previously are being acquired presently and the final plans for the 300 additional parking spaces are currently being reviewed for presentation to the Board in a few weeks. Mr. Norman stated he is asking for a special exception for the areas that have not been approved for university use, but have been acquired by the University, for the limited purpose of off-street parking for special events. He indicated that TU does not anticipate a significant number of special events, perhaps only one (1) or two (2), in addition to the five (5) scheduled home football games.

**Comments and Questions:**

Mr. White asked the applicant if the request is for the maximum of 20 days? Mr. Norman stated that under the Code, if the subject properties were approved for university use, they could have special event parking, but not more than 20 days in any calendar year. He explained that TU is not asking for any increase in the 20 days.

Mr. Bolzle asked the applicant if he is creating a hardship for the two (2) homes next to the green space west of the Law School parking on Florence & College by parking too close? Mr. Norman stated that the Board could limit the parking to the south 70' to protect the homes. He commented that the area in question is one of the farthest distances to walk to the stadium and will likely be the least utilized.

Mr. Bolzle expressed concerns that cars parking next to the two homes in question would be shining their lights into their homes and would be a nuisance. He asked Mr. Norman if that was a concern of his as well? Mr. Norman stated that it should not be a hardship because it is a limited period of use and there will only be five (5) home games. He explained that when the Board approves the subject lot for university use, the Board will require screening fences.

Mr. Bolzle asked Mr. Norman if it would create a hardship for the University if they were not allowed the 50' of parking? Mr. Norman stated that they would have to rope it off and police the lot during the event.

**Protestants:**

**Tom Trimble**, 803 South Indianapolis, representing Turner Park Homeowner's Association, stated that the association has residents occupy the space from 4th Street to 11th Street and Harvard, due east to Pittsburg. He commented that the last 1 1/2 years the University has made a good effort to communicate with the neighborhood. He expressed concerns with the green belt section east of Harvard,

Case No. 17822 (continued)

between 7th Street and 9th Street. Mr. Trimble stated that last year people chose to create parking in the area. The traffic increases during the games and special events throughout the neighborhood. He questioned how long the temporary parking would be allowed and what specific date the parking will discontinue? He informed the Board that last year during the university events his neighborhood experienced some vandalism. He expressed concerns with people continuing to park in the area after the temporary parking is no longer allowed.

**Harold Reynolds**, 7540 East 52nd Place, stated he owns an apartment building located at 1008 South College, which is one block west of Skelly Stadium. He questioned if the temporary lots will be supervised in order to prevent haphazard parking? He explained that his tenants are often blocked in by people parking indiscriminately in the alley. He stated that people will be parking within 8' of the front doors of his tenants apartments.

**Applicant's Rebuttal:**

**Mr. Norman** stated that all of the home football games will be afternoon games starting at 2:00 p.m. or 4:00 p.m. He commented that he does not anticipate any parking in the evening hours for the home football games. The new convocation building is scheduled for completion in September or October of 1998 and TU is asking for the off-street parking during special events and for the fall football season of 1997 and 1998. He stated that there will be supervision at the parking lots south of 6th Street, but TU does not plan to try to monitor or have the other lots manned. Mr. Norman stated that TU will have security officers on the campus and during the games. He explained that people who block alleys and driveways are subject to police ticketing. The neighborhood to the east and south have signs that prohibit on-street parking during Skelly Stadium events. He commented that the signs have worked very successfully in limiting parking to at least one side of the street.

**Comments and Questions:**

Mr. Dunham asked the applicant if he had a specific date to limit the temporary parking? Mr. Norman stated he would like to go through the football season of 1998 in case the new convocation building is delayed.

**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 Use Unit 2, off-street parking for University special events for 1997 and 1998 during construction of Convocation Center. Additional all-weather parking is now in design and construction with completion scheduled for late summer, 1998, and a **Variance** to permit special events parking within 50' of residentially zoned districts; per plan submitted; limited to the areas designated in green on the plan submitted; finding that the approval of this application will not be injurious to the

Case No. 17822 (continued)

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 1-27, Block 1, and all of Blocks 2-30, College Addition, and Lots 11-22, Block 1, Vine Haven and all of Blocks 2-4, Vine Haven, all of the Resurvey of Lots 1-10, Block 1, Vine Haven, Lots 12-21, Block 5, Highlands 2nd Addition, and all of Blocks 6-8, Highlands 2nd Addition, Lots 2-7, Block 8, Braden Heights, Lots 1-3, Block 1, Braden Heights, and Lot 9, Block 2, Acme Farm, all additions to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17823**

**Action Requested:**

Variance of required side yard from 10' to 5' on both lots to allow new construction on non-conforming lots, located 2747 East 23rd Street.

**Presentation:**

The applicant, **Jon Vrooman**, represented by **Forrest Carpenter**, 6138 South Louisville Avenue, submitted a site plan (Exhibit S-1), plot plan (Exhibit S-2) and stated that his hardship is that the, RS-2 zoning district required 75' wide lots, but the two (2) subject lots are 50' wide. He explained that because of the 50' width he is requesting the side yards to be 5'. He stated the proposal is to build homes on each lot and the designs are for a 35' wide home or 40' wide home. He explained that the 40' wide home allows his architect more options to make the houses look nicer. Mr. Carpenter informed the Board that there is one house within 300' of the subject property that is on a 50' lot with 5' side yards, as well as others in the neighborhood. He stated that four (4) months ago he was granted a variance for a 5' side yard by the Board for the same neighborhood. He explained that neither side neighbor will be affected by the reduced 5' side yard. He stated that the middle property line between the proposed houses will be affected. Mr. Carpenter indicated that there will be 20' in the middle of the proposed homes if they are not granted the variance for 5'.

**Protestants: The following protestants expressed similar concerns:**

**Derek Autley**, 2720 E. 22nd Place, submitted letters of protest (Exhibit S-3); **Linda Conner**, 2471 East 23rd.

**The following concerns were expressed by the protestants:**

side yard variances allowed in the past; neighborhood is being filled with new homes and small side yards; majority of homes are built on 175' lots with large side yards; subject area is zoned RS-2, which requires 10' and 5' side yards; changing the look of the neighborhood; neighborhood is starting to look like row houses; high density construction; homeowners will lose off-street parking; new homes are not compatible with existing homes; lose privacy when 2 story homes are built 5' from property line.

**Comments and Questions:**

Mr. White asked Staff if the developer can build two homes since there are two lots? Mr. Beach answered affirmatively.

Mr. Dunham stated that the Board cannot deny the developer the right to build two houses because there are two lots. The only issue is whether the side yard setback will be 5' or 10'.

Mr. Dunham asked the Staff if the developer can have the 10' side yards adjoining on the two properties? Mr. Stump confirmed that the developer can choose which side the 10' and 5' side yards are located. The developer can choose to put the 10' side yard side by side between the two proposed homes.

Mr. Dunham stated that the only concern that the neighbors will have is whether it is a 35' wide home or 40' wide home. The Developer has the right to put a 35' home on the lots.

Mr. Bolzle stated that the issue is the amount of open space in a neighborhood between houses wherever they are located. There is a right to a certain amount of open space overall in a neighborhood between houses. He commented that he is not personally swayed if the owner of the subject property chooses to have 5' on the outside of each lot and 10' in the middle. There would still be 20' between the two houses instead of 10'. The overall air and space, as a whole, is enhanced as a result of this Code.

**Interested Parties:**

**Scott Rueben**, Architect for the proposal, stated that he has designed over 250 houses in Tulsa over the last 8 years. The issue is whether there is a 35' or 40' wide home. He stated that a 40' wide house is aesthetically better for the neighborhood. He explained that if the subject property was platted today, it would have a 5' side yard for both sides.

**Applicant's Rebuttal:**

**Mr. Carpenter** reminded the Board and protestants that this is not a lot split. He explained that he met with a couple of neighbors because the letter that they sent out to the neighborhood referred to the application as a lot split. He stated he has two (2) buyers for the homes and homes will have a high value, as well as the property. He commented that he is not trying to be a bad neighbor and hopes to live in this addition in the future. Mr. Carpenter indicated that if he has to build a 35' home, then he will lose an apple tree on one of the lots. He explained that the existing home will be cut into three (3) parts to preserve existing trees.

Case No. 17823 (continued)

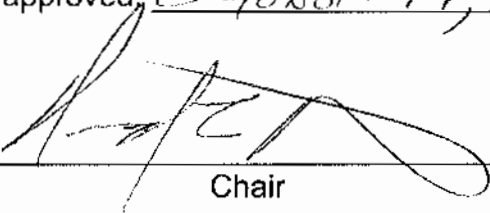
**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **DENY** a **Variance** of required side yard from 10' to 5' on both lots to allow new construction on non-conforming lots; 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:

Lots 36 & 37, Block 2, Harter's Fourth Resubdivision, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 6:15 p.m.

Date approved: October 14, 1997

  
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Chair