

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 741**  
Tuesday, January 13, 1998, 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>
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Bolzle  
Cooper  
Dunham  
Turnbo  
White, Chair

Beach  
Huntsinger  
Stump

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

The notice and agenda of said meeting were posted in the Office of the City Clerk on Wednesday, January 7, 1998, at 2:47 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 November 25, 1997, (No. 739).

On **MOTION** of **DUNHAM**, the Board voted 3-0-1 (Bolzle, Dunham, White, "aye"; no "nays" Turnbo "abstention"; Cooper "absent") to **APPROVE** the minutes of December 9, 1997, (No. 740).

**UNFINISHED BUSINESS**

**Cooper in at 1:06 p.m.**

**Case No. 17841**

**Action Requested:**

Special Exception to amend previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2, located 6727 South Sheridan Road.

**Presentation:**

The applicant, **Diane Gollnick**, representing **Fellowship Lutheran Church**, 6727 South Sheridan Road, submitted a site plan (Exhibit A-1) and photographs (Exhibit A-2). Ms. Gollnick stated that the issue is a location of a storage unit, which is currently behind the church. She explained that the storage unit measures 20' X 10' and is a railroad metal container. She indicated that the container has been painted the same color as the church. Ms. Gollnick stated that the neighbors objected to the storage unit because it was visible from their back yard. She further stated that the storage unit was too close to the church and is a fire hazard. After lengthy discussion with officials, it was suggested to move the storage unit to a black top area on the church property. She indicated that the storage unit will be out of view of the Perssons, who were the protestors of the current location. Ms. Gollnick stated that the storage unit is a temporary building and houses their lawn equipment. The church intends to build a garage in the future to house the lawn equipment and vehicles. She stated that the Building Inspector stated the storage unit has to be tied down into the asphalt to secure the building. She indicated that she is waiting for an Engineering Report that was requested by the Building Inspector. She explained that she circulated a letter to the neighborhood indicating the new plans and future plans to build a permanent garage. After the letter was circulated the church did not receive any calls or complaints.

**Interested Parties:**

**Bob Persson**, 6746 South 66<sup>th</sup> East Avenue, submitted a letter of protest (Exhibit A-3) and a petition (Exhibit A-4). Mr. Persson stated he lives directly behind the church. He explained that all of the neighbors that signed the petition back up to the church and are opposed to having the shipping container defined as a building. He explained that he has gone to every church within one mile of his home, through his neighborhood and he did not find any properties with a shipping container as an outbuilding. He stated that the shipping container was moved in while construction was underway at the church. He explained that he thought it was part of the construction trailers and would be removed once construction was completed. Mr. Persson commented that the shipping container has a negative effect on the neighborhood. He stated that the church should draw up plans and submit the plans to the Board for a storage building that blends in with the existing church structure. He requested the Board to reaffirm their original decision to deny this application.

**Comments and Questions:**

Mr. Dunham asked Mr. Persson if he received the letter dated December 22, 1997? He stated he received the letter on December 29, 1997. He explained that the letter infers that he came to an agreement with the church on the placement of the storage container. He stated that all of the neighbors can see this storage container and do not want it in their view. He explained that all of the neighbors have a 6' stockade fence, but can still see the storage container.

Case No. 17841 (continued)

Mr. Cooper asked Mr. Persson if he had any communication with the church prior to the Board's previous ruling? He explained that once he realized that the storage container was not going to be removed with the completion of the construction, he called the church. He stated that he was told the storage container will be a temporary structure. He indicated that he asked the church if the storage container had been approved by the Building Inspector. He stated that he filed a complaint and the communication did not happen until after the previous Board of Adjustment meeting.

Mr. Bolzle asked Mr. Persson if his primary concern is that the storage container is not a traditional looking storage building? He stated that by his definition it is not considered a building.

In response to Mr. Bolzle, Mr. Persson stated that if the Building Inspector approved the proposed location, then he will have to accept that location, but he would prefer the building being a properly constructed building. He commented that previously the neighbors offered to pay for all of the materials if the church would provide the labor and the church turned down their offer. Mr. Persson reiterated that the neighbors are opposed to the storage container setting on the subject property for the next two or three years.

Mr. Romig read the definition of a building from the Code Book. He stated that if the storage container is permanently attached to the ground then it would become a building. He reminded the Board that the only issue before the Board is the amendment to the site plan.

**Interested Parties:**

**John Blessing**, 6763 South 66<sup>th</sup> East Avenue, stated he lives directly across the street from the houses that abut the church. He explained that he is a member of the church and on the council. He commented that the church is a good neighbor to the surrounding area.

**Applicant's Rebuttal:**

**Ms. Gollnick**, stated that the reason for the building is for storage of lawn equipment. She reiterated that the neighbors will not be able to see the storage container from the new location, because they all have stockade fences. She indicated that other churches in the surrounding area have outbuildings ranging from shabby to actual garages from the submitted photographs. She commented that the storage container is painted the same color as the church and is compatible for the area.

**Board Action:**

On **MOTION** of **COOPER**, to **APPROVE** a **Special Exception** to amend previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2, subject to the new site being the site designated on the site plan (Exhibit A-1) for the storage container, subject to the storage container being a temporary building not to exceed one year; subject to the storage container being replaced with a building more compatible with the neighborhood.

**MOTION FAILED DUE TO LACK OF SECOND**

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-1-0 (Bolzle, Dunham, Turnbo, White, "aye"; Cooper "nays", no "abstentions"; none "absent") to **DENY** a **Special Exception** to amend previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 2; finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

Lot 14, Block 12, Park Plaza South, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17886**

**Action Requested:**

Minor Special Exception to reduce the required front yard from 35' to 30'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 34<sup>th</sup> & Atlanta Place.

**Presentation:**

The applicant, **Carol Mersch**, submitted a letter requesting a continuance to date uncertain (Exhibit B-1).

**Comments and Questions:**

Mr. Beach explained that the case has been before the Board two previous times. At this point the applicant has requested a continuance in order to allow for additional time to work on her house plans. The applicant is not looking for a specific date and would like to leave it open-ended. Mr. Beach suggested that it would be more appropriate to strike the application from the Agenda and allow the applicant to reapply when she is ready. The applicant did not give any indication when she would be prepared to appear before the Board.

Case No. 17886 (continued)

**Comments and Questions:**

Mr. Bolzle asked the staff if there would be any refunding of fees to the applicant? Mr. Beach answered negatively.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **STRIKE** Case No. 17886 from the Agenda.

**Case No. 17888**

**Action Requested:**

Special Exception to allow a church and accessory uses in an OL zoned district.  
**SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** – use unit 2, located North, NW/c East 4<sup>th</sup> Street & South Memorial.

**Presentation:**

The applicant, **Dr. Eric Mikel**, 909 East 36<sup>th</sup> Street North, submitted a site plan (Exhibit C-1) and requested permission to allow a church and accessory uses on the subject property. He explained that he has contacted Mr. Darryl French, City Traffic Engineer, and he indicated that there would not be any impact on the traffic with regard to the access and exits for the church.

**Comments and Questions:**

Mr. Dunham commented that the applicant has not addressed the landscaping requirement and screening requirements between the subject property and the property adjacent to the west.

Dr. Mikel stated that the landscaping and screening requirements will be met.

In response to Mr. Beach, Dr. Mikel stated that the subject property has ample parking with 96 spaces.

Mr. Stump informed the applicant that the access to the parking spaces has to be paved as well as the parking spaces.

In response to Mr. Stump, Dr. Mikel stated that he is aware of the paving requirements and that some of the parking spaces will have to be designated for the physically challenged.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to allow a church and accessory uses in an OL zoned district. **SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS** – use unit 2, subject to a detailed site plan being submitted; subject to the screening and landscaping requirements being met; 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 located in the NE/4, SE/4, Sec. 2, T-19-N, R-13-E, Tulsa County, Oklahoma, more particularly described as follows to-wit: Commencing at the SE/c, said NE/4, SE/4, Sec. 2; thence N 00°05'28" W along the E line for 717.89'; thence N 90°00'00" W for 50.00' to the true POB; thence N 90°00'00" W for 307.00'; thence S 00°05'28" E for 283.80'; thence S 90°00'00" E for 307.00'; thence N 00°05'28" W for 283.80' to the true POB, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17895**

**Action Requested:**

Variance of the 85' building setback requirement from the centerline of S. Peoria Ave to 63' to permit the expansion of the Fenster Museum wing of the synagogue.

**SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a Variance of the 55' setback requirements from the centerline of E. 17<sup>th</sup> St. to 35' to permit the expansion of the Fenster Museum wing of the synagogue and the reconstruction of the school and accessory synagogue uses building pursuant to an amended site plan approved by the Board. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** a Variance to permit the total building floor area of the synagogue to exceed 50% of the site area. **SECTION 404.F.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS,** and a Variance to permit off-street parking required for the synagogue to be located on Lots 9-17, Block 7, Morningside Addition. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS,** located SW/c 17<sup>th</sup> Street & South Peoria Avenue.

**Presentation:**

The applicant, **Charles E. Norman**, 2900 Mid-Continent Tower, representing B'Nai Emunah Synagogue, submitted a site plan (Exhibit E-1), development standards (Exhibit E-2) and photographs (Exhibit E-3). Mr. Norman stated the synagogue occupies a entire block between 17<sup>th</sup> Street, 17<sup>th</sup> Place, Peoria and South Owasso. The parking area is located on the north side of the facility and an additional lot on the south side of 17<sup>th</sup> Place that has been previously approved by the Board of Adjustment for use of religious purposes. He indicated that the west part of the subject property is proposed to be removed and replaced with a new facility. The new facility would be attached to the main body of the Synagogue, which fronts South Peoria with entrances on 17<sup>th</sup> and 17<sup>th</sup> Place. He informed the Board that the existing building no longer meets the Building and Occupancy Codes for a pre-school and daycare center for small children. Mr. Norman indicated that he met with the surrounding Homeowner's Association and the neighbors most closely affected by the proposed changes. He proposed to add to the existing structure and attach it to the main sanctuary building according to the site plan submitted. He stated that the proposal does not contemplate any changes in the size or seating space and there will not be any increase or decrease in the required number of parking spaces. The setback from the centerline of South Peoria is 50' and the existing sanctuary building on Peoria is 50' from the centerline pursuant to previous approval by the Board. The Board has granted other variances on Peoria which is on the Major Street and Highway Plan as a secondary arterial street, but cannot and will never have the required 100' of right-of-way that is specified by the plan. The commercial structures and uses to the north are good examples of this instance. Mr. Norman requested permission to expand the building at the northeast corner of the block to the same 50' building line where the main sanctuary is located. He further requested a variance for the side yard on 17<sup>th</sup> Street and on Owasso the buildings will be setback further than required for single-family residences. On the 17<sup>th</sup> Place side of the subject property the structures are approximately 80' from the centerline and there is no question of compliance with the requirements of the underlying zoning district. Mr. Norman stated that the total complex will have approximately 54,000 SF of floor area when completed and will be in excess of 50% of the block, but is not in excess of 50% of the total area used for the synagogue counting the parking area on the north side of 17<sup>th</sup> Street. The new building will have a maximum height to the top of the parapet of 18'. The present building is approximately 14' in height. This permits a 9' ceiling height, 2' above the ceiling for mechanical equipment, 2' for the structure and a parapet of approximately 1 ½'. The west elevation of the building will be 18' above the new grade. He explained that the subject property slopes from Peoria to the west and in order to create a single floor level throughout the structure, it will be necessary to fill the property on the west side approximately 3' to create the foot print for the building. There will be no entrances or exits on the west side of the new facility except for exit doorways for the classrooms. He explained that the exit doors are required by Code and will be used only to allow children to go in and out of the screened playground on the west side of the subject property. He stated that there will be a black plastic coated chain link type

fence with brick columns that will be no more than 4' high, in order to enclose the play area for the children. He stated that his client does not want a solid screening fence that would either hide the children or prevent them from seeing out of the playground area. Mr. Norman indicated that with recent discussions with the neighborhood representatives, his client has agreed to two additional developmental standards. He stated that there will be no ground mounted electrical, mechanical equipment, except for PSO's requirements. He further stated that the trash receptacle area on East 17<sup>th</sup> Street will be screened from the resident's view on the south side of East 17<sup>th</sup> Place.

**Comments and Questions:**

Mr. Norman informed the Board that he has filed with the City to close 17<sup>th</sup> Street between Owasso and South Peoria. He stated that the Board of Adjustment application is not dependent upon nor requires the closing of 17<sup>th</sup> Street. Closing 17<sup>th</sup> Street would create a safer relationship and provide for the access from Peoria. He explained that the proposed closing is being studied by the Traffic Engineers.

Mr. Norman informed the Board that the previous approval for the pre-school was limited to 50 children and it currently has more than 50 children attending. He requested the Board to modify the number permitted by the State law. He stated that currently there are 68 children enrolled.

In response to Mr. Bolzle, Mr. Norman stated that he considers that since he has brought the entire facility back before the Board that it is within the Board's authority to amend the enrollment limit. He explained that the enrollment limitation is not a variance of any requirement of the Code, but a previously established condition. Typically, notice is not required for something imposed by the Board, as contrasted with something required by the Zoning Code itself.

**Protestants:**

**Beth Fisher**, representing Maple Ridge Homeowner's Association, submitted a letter of protest (Exhibit E-4) and suggested that the synagogue file for a PUD. She requested the Board to deny this application. She expressed concerns with the historical preservation of the neighborhood.

**George Miller**, 1704 South Owasso, submitted a petition (Exhibit E-5); **Troy Langham**, 1508 South Owasso;

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

The synagogue should file a PUD; historical preservation neighborhood and is being impacted by the synagogue; additional encroachment on 17<sup>th</sup> Street; impact on traffic; impact on neighborhood; increase in enrollment for the pre-school; possibly becoming a two-story building; nothing unique about the subject property that would result in a hardship by enforcing the Code; synagogue is not abiding by the previous limitation on enrollment and has impacted the traffic on Owasso;



**Interested Parties:**

**Paul Atkins**, representing Swan Lake Homeowner's Association, stated that his neighborhood opposes PUD's and is for the synagogue's proposal.

**Harris Prescott**, 1722 South Owasso; **Warner Hockett**, 1716 South Quaker.

**The following comments were expressed by several interested parties:**

Oppose the suggestion that the synagogue file for a PUD because the zoning is not enforced; the synagogue will beautify the neighborhood; the lighting from the synagogue adds security to the surrounding neighbors; the synagogue has shown good faith by informing the neighborhood of its plans and will continue to do so in the future.

**Applicant's Rebuttal:**

**Mr. Norman** stated that he has filed an application that is presently pending before the Tulsa Preservation Commission for a demolition permit. The consideration was set for last week and has been continued to the February meeting. He stated that whatever design standards are required through the process will be followed. With regard to the suggestion that the synagogue file a PUD, Mr. Norman stated that the Board of Adjustment was established and specifically given authority to grant exceptions to permit churches and synagogues within residentially zoned areas. These uses are appropriate and are permitted within residential areas subject to the Board's review of compatibility and appropriateness. He explained that what his client has tried to do is to submit exactly the same information that would be made a part of a PUD. He stated that the Board's approvals are enforceable and are guidelines for submitting building permits and certificates of occupancy. The landscaping is as detailed as you would find in a PUD. Mr. Norman concluded that he feels that his client has complied with the spirit and intent of the Code. He requested the Board to approve the identical use that has been in existence for at least three years. The occupancy issue is determined by the number of SF required for each child under the State law and provides adequate protection. This is a neighborhood resource, as well as community facility.

**Comments and Questions:**

After lengthy discussion, it was determined that the variance is needed for the setback from the centerline of 17<sup>th</sup> St.

Mr. Norman stated that the literal enforcement of the Code forces a hardship on 17<sup>th</sup> Street.

Mr. Cooper asked the staff if the number of students is properly before the Board? Mr. Romig stated that the people deserve notice on the issue of enrollment and it is not properly before the Board.

Case No. 17895 (continued)

Ms. Turnbo stated that Mr. Norman is going in the right direction by coming to the Board before going to the Tulsa Preservation Commission. She commented that the landscaping plan is very detailed and there does not seem to be any problem with the landscaping.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of the 85' building setback requirement from the centerline of S. Peoria Ave to 63' to permit the expansion of the Fenster Museum wing of the synagogue. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; a **Variance** of the 55' setback requirements from the centerline of E. 17<sup>th</sup> St. to 35' to permit the expansion of the Fenster Museum wing of the synagogue and the reconstruction of the school and accessory synagogue uses building pursuant to an amended site plan approved by the Board. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; and a **Variance** to permit the total building floor area of the synagogue to exceed 50% of the site area. **SECTION 404.F.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**; per plan submitted; subject to the submitted development standards; subject to there being no ground mounted electrical or mechanical equipment, except for PSO's requirements; subject to the trash receptacle being screened from the residents on the south side 17<sup>th</sup> Place and **CONTINUE** the balance of this application to February 10, 1998 at 1:00 p.m. in order to allow the applicant to re-advertise for the number of children allowed to be enrolled in the pre-school.

**NEW APPLICATIONS**

**Case No. 17892**

**Action Requested:**

Special Exception to permit manufactured housing in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Unit 9 and a Variance to the all-weather surface parking requirement. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 3 North Lawton.

**Presentation:**

The applicant, **Sandra Edwards/Skimmer Corp.**, submitted a letter requesting a continuance to February 10, 1998 (Exhibit D-1).

Case No. 17892 (continued)

**Comments and Questions:**

Mr. Beach informed the Board that the letter requesting a continuance was a timely request.

Mr. Ted Sack, Sack and Associates, 111 S. Elgin, stated that the advertised property is not where the variance is needed. The variance is needed on the piece of property to the south of the subject property. This case will need to be re-advertised for the correct piece of property.

Mr. Beach stated that the case is not properly before the Board. He explained that the legal description submitted is incorrect.

**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. 17892 to February 10, 1998 at 1:00 p.m.

**Case No. 17898**

**Action Requested:**

Variance of the required 50' setback to 42' to allow a projecting sign on E. 11<sup>th</sup> St. **SECTION 1221.C.6. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**, located 2644 East 11<sup>th</sup> Street.

**Presentation:**

The applicant, **Russell Mason**, 821 North Kingston Avenue, submitted a site plan (Exhibit F-1) and stated that the setback on 11<sup>th</sup> Street is 50' and the front of the existing building is 44' to the centerline. The proposed sign projects 2' out from the building, which brings the setback to 42'. He explained that the sign will not be over the street, but it will be 2' over the sidewalk.

**Comments and Questions:**

Mr. Dunham asked the applicant for the height of the sign from the ground. He stated it is 10' from the ground to the bottom of the sign. The sign is 2' x 4' or 8 SF.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** Variance of the required 50' setback to 42' to allow a projecting sign on E. 11<sup>th</sup> St. **SECTION 1221.C.6. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**; Per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Case No. 17898 (continued)

Lots 1-9, Block 1, Max Campbell Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17901**

**Action Requested:**

Variance of the required side yard from 10' to 5.5' to allow for an addition on the existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6, located 5311 South Columbia Avenue.

**Presentation:**

The applicant, **Gary Wm. Spriggs**, 11517 South 109<sup>th</sup> East Avenue, Bixby, submitted a site plan (Exhibit G-1) and a letter of support (Exhibit G-2). Mr. Spriggs stated that the existing dwelling is a non-conforming structure. He explained that existing dwelling was built before the Code required 10' and 5' side yards. He stated that there is only 5' on each side of the existing home. He indicated that the homeowner would like to build an addition all across the back of the house. The new addition will be in the back and will not encroach on the side yard any further.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a Variance of the required side yard from 10' to 5.5' to allow for an addition on the existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6, finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 2, Block 5, Columbia Terrace, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17902**

**Action Requested:**

Variance of the required side yard abutting a public street from 15' to 10' to allow an addition to an existing non-conforming dwelling, located 2607 East 57<sup>th</sup> Street.

**Presentation:**

The applicant, **Dan Mordhorst**, 2607 East 57<sup>th</sup> Street, submitted a site plan (Exhibit H-1) and stated he is requesting a variance to add a 750 SF garage onto the rear of his home. This will be a three car garage and will conform to the requirements of the subdivision. He explained that the street that he is abutting is actually a platted street, which is unused and fenced off. He informed the Board that he has filed a request to have Columbia Avenue vacated and according to the City of Tulsa, they will be doing so.

Case No. 17902 (continued)

**Comments and Questions:**

Mr. Beach stated that if the street is not vacated then he will need a license agreement to use Columbia Avenue for his private purpose.

Mr. Romig stated that Columbia Avenue has been closed in this area. Closing a street is different than being vacated. Vacated means that the street goes to District Court and the City loses its right to the property. The City will be requiring an easement in order to have access to the creek. This will require a license agreement regardless if the street is closed or vacated.

In response Mr. Beach, Mr. Romig stated that the City retains the right to reopen Columbia Avenue and it still remains City of Tulsa property. Therefore a license agreement is required to utilize the subject property. He explained that once the City closes the street the applicant has the right to go onto the property and utilize the property, but he cannot build anything on the property.

Mr. Dunham stated he understands that the applicant is wanting to use the street for access to his garage and he will not be building anything on the property.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required side yard abutting a public street from 15' to 10' to allow an addition to an existing non-conforming dwelling; subject to a license agreement with the City of Tulsa is approved to use the closed Columbia Avenue; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Southern Hills Manor Addition Amended, Block 2, Lot 1, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17903**

**Action Requested:**

Variance of the required setback from an abutting R district to allow construction adjacent to a R zoned stormwater detention area, located 1300 Block South Garnett Road.

**Presentation:**

The applicant, **Joseph A. McCormick**, 601 Park Tower, 5314 South Yale, submitted a letter of support (Exhibit I-1). Mr. McCormick stated that his request is straightforward and he is ready to answer any questions the Board might have.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** Variance of the required setback from an abutting R district to allow construction adjacent to a R zoned stormwater detention area; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lots 6 & 7, Elm Hurst, an addition City of Tulsa, Tulsa County, Oklahoma according to the Recorded Plat thereof AND part of vacated E. 13<sup>th</sup> St. S., as described further hereon, to-wit: Beg. at the NE/c, said Lot 6; thence N 25'; thence W 30'; thence S 25'; thence E 30' to the POB; LESS AND EXCEPT the W 10' of said Lot 6, and LESS AND EXCEPT the W 10' of said Lot 7, and LESS AND EXCEPT the S 125' of said Lot 7.

**Case No. 17904**

**Action Requested:**

Variance of the required side yard setback from 15' to 6' and 15' to 12' on the same side of the property. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 2703 South Yorktown.

**Presentation:**

The applicant, **Warren F. Kruger**, 2828 South Yorktown, submitted a site plan (Exhibit J-1) and stated that he was adding a garage onto the front portion of the existing home. He explained that the back portion of the addition is a closet. Mr. Kruger indicated that he met with his neighbor and agreed on the garage portion of the application. He stated he will move the garage side yard setback to 15' and is no longer an issue. The only issue currently is the setback variance for the closet on the back portion of the application. He explained that the subject property was built between 1928 –33 and it is currently 13' within the property line, which will be 6' when the expansion is completed.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **WITHDRAW** a **Variance** of the required side yard setback from 15' to 12' for the garage and the site plan modified to show the side yard setback for the garage addition to indicate 15' and **APPROVE** a **Variance** of the required side yard setback from 15' to 6' to allow construction of a closet. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; per modified plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 9, Block 6, Forest Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

### **Case No. 17905**

#### **Action Requested:**

Request to Eliminate a previously required condition of the Board that all development be per plan submitted or in the Alternative: A Minor Special Exception to amend the previously approved site plan, located 9610 South Garnett.

#### **Presentation:**

The applicant, **J. Scott Baker**, 2501 South Maple Avenue, Broken Arrow, submitted a site plan (Exhibit K-1) and requested that the alternative request be approved. He explained that he will be adding an extension on the maintenance facility at the subject location.

#### **Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** A **Minor Special Exception** to amend the 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:

Lot 1, Block 1, Grace Fellowship Church and School, City of Tulsa, Tulsa County, Oklahoma.

### **Case No. 17906**

#### **Action Requested:**

Variance of the required 1200' spacing from another outdoor advertising sign to 100' spacing. **SECTION 1221.F.2, USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS**, located SW/c North Detroit & East Davenport.

#### **Presentation:**

The applicant, **Terry Howard**, represented by **Mr. Ash**, 224 Southwind Court, Rockport, Texas, requested a continuance to February 10, 1998. He explained that he is not prepared for a hearing today.

#### **Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **CONTINUE** Case No. 17906 to February 10, 1998 at 1:00 p.m.

**Case No. 17907**

**Action Requested:**

Variance of the maximum allowable display surface area of 330 SF to 768 SF to permit a new business sign (96 SF) in addition to an existing billboard (672 SF).

**SECTION 1221.D.3. CS DISTRICT USE CONDITIONS FOR BUSINESS SIGNS,** located 2199 South Sheridan.

**Presentation:**

The applicant, **Larry Waid Sign Design & Consulting**, 4714 South 69<sup>th</sup> East Avenue, submitted a site plan (Exhibit L-1) and photographs (Exhibit L-2). Mr. Waid stated he is requested the variance because of the existing billboard on the subject property. He explained that he would like to erect a business sign for the new business being built. The billboard has consumed the SF allowed and is a pre-existing condition.

**Comments and Questions:**

Mr. Beach stated that the Code will allow 1 sign for every 150 linear feet of street frontage.

In response to Mr. Cooper, Mr. Beach explained that the billboard has utilized all of the available SF display surface area on the subject property. The billboard is non-conforming because it exceeds all of the SF allowable for this site and it is outside an expressway corridor.

Mr. Bolzle commented that the applicant does not own the billboard, but he benefits from the income for the billboard.

Mr. Waid stated that the billboard is under an agreement, which is a pre-existing agreement, with Donrey Outdoor Advertising. The agreement states that the board must stay for another five years and the contract is beyond the present owner's control.

Mr. Bolzle explained to Mr. Waid that the condition for granting the new signage would be that when the existing lease terminates on the billboard that it not be renewed and the billboard removed. Mr. Bolzle commented that the owner can renew the lease on the billboard and not install a business sign.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of the maximum allowable display surface area of 330 SF to 768 SF to permit a new business sign (96 SF) in addition to an existing billboard (672 SF). **SECTION 1221.D.3. CS DISTRICT USE CONDITIONS FOR BUSINESS SIGNS;** Subject to the Outdoor Advertising Sign being removed at the end of the existing lease; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:



Lot 1, Block 2, Cozy Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

**Interested Parties:**

**Larry Graves**, 8892 Haskell Drive, Broken Arrow, owner of the subject property, stated he has an existing contract with Donrey Signs for the billboard. Explained that the Billboard generates \$4800.00 per year and pays a portion of his taxes for the subject property. He indicated that the business sign will be 330' from the billboard. Mr. Graves commented he did not feel that the condition the Board imposed on his approval is fair.

**Additional Comments:**

After a lengthy discussion, the Board determined that the motion and approval will stay as stand.

**Case No. 17908**

**Action Requested:**

Special Exception to permit Use Unit 25 in a CH district (manufacturing metal sculptures). **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 25, located 6205 East Tecumseh.

**Presentation:**

The applicant, **Bobby J. Heflin**, 6209 East Tecumseh, submitted a site plan (Exhibit M-1) and photographs (Exhibit M-2). Mr. Heflin stated the area consists of light and heavy industry. He explained that the proposed application is a two-person operation and is not a walk-in business.

**Comments and Questions:**

In response to Mr. Dunham, Mr. Heflin explained that the proposal is for manufacturing metal sculptures.

Mr. White asked the applicant where the parking would be located for the subject property? Mr. Heflin stated that there is unrestricted on-street parking in front of the subject property. He explained that the subject building was constructed in 1956. He informed the Board that the surrounding area is built up to the street and seldom has off-street parking. Mr. Heflin compared the parking in the area to the parking in Downtown Tulsa.

Mr. Beach informed the Board that Mr. Heflin will need relief from the parking requirements.

**Interested Parties:**

**David Patrick**, City Councilman, District 3, stated that the subject application is in his district and personal neighborhood. He commented that he has visited with the applicant and he is aware of the parking problems. He explained that several of the businesses in the area have the same parking problems. The buildings were never designed for off-street parking. He informed the Board that the neighborhood association does not have a problem with the subject application. The subject application is operated by a husband and wife, which is primarily mail order products. Mr. Patrick concluded that the subject application will not impact the area and will enhance the area by utilizing the subject property.

**Applicant's Rebuttal:**

**Mr. Heflin** stated that the metal sculptures are small desk models of oil derricks, etc.

**Comments and Questions:**

In response to Mr. Dunham, Mr. Heflin stated that the owners of the subject property only need approval for the requested business and do not need a blanket approval of Use Unit 25.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit the manufacturing of small metal sculptures. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 25; **AND CONTINUE** the balance of Case No. 17908 to February 10, 1998 in order to allow the applicant to apply for a variance on the parking requirement, finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

W 32.5', E 80', Lots 13-16, Block 19, Wooley's Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17909**

**Action Requested:**

Special Exception to allow a mobile home in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a Variance of time limit to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, or in the alternative a Special Exception to allow duplex use across both lots. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 7, located 1110 & 1114 North Gary Avenue.

Case No. 17909 (continued)

**Presentation:**

The applicant, **Abington, L.L.C./R.H. Reno**, represented by **Debra Barnett**, 826 North Marion, stated that Mr. Reno is out of town and would like a continuance. She explained that the site plan is not a detailed site plan and she is not prepared to answer the staff comments.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **CONTINUE** Case No. 17909 to February 10, 1998 at 1:00 p.m.

**Case No. 17910**

**Action Requested:**

Special Exception to allow office uses in a RM-2 District. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11; a Special Exception to remove the screening requirements. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Use Conditions** and a Variance of off-street parking setbacks from abutting streets. **SECTION 1302. SETBACKS**, located 1309 & 1313 South Elwood.

**Presentation:**

The applicant, **Greg Guerrero**, 2223 East 20<sup>th</sup> Street, submitted a site plan (Exhibit N-1), photographs (Exhibit N-2) and a letter of support (Exhibit N-3) Mr. Guerrero stated he has owned the 1313 South Elwood property for approximately 13 years. He explained that the 1313 South Elwood property has a total of 9 units and on the 1309 S. Elwood property the duplex has been removed. The existing house has historical significance and was built by George Perryman in 1886. Mr. Guerrero stated he would like to renovate the existing home and he would need to continue to rent the existing property. He explained that he would like to add on a side wing to the existing home and build back the steeple to its original appearance. He further explained that he would add 21 parking spaces, which will be predominately in the back next to the alley. He commented that the proposed use will be a less intrusive use than the multi-family use, because the office tenants will be keeping normal working hours. The north side property line is within 1' of the building of the north neighbor, which is a two-story apartment house. He explained that if he erected a screening fence it would block the view of the lower portion of the apartment house. He stated he has no problem with screening the parking lot on the east side. Mr. Guerrero proposes a 4' divider fence in the front facing Elwood. In regard to the east side of the subject property, which abuts an alley, it does not make sense to screen this portion since several businesses and apartment complexes that are using parking abutting the alley and exiting the alley.

**Interested Parties:**

**Jim Norton**, President of Downtown Tulsa Unlimited, 320 South Boston, Suite 101, submitted a petition (Exhibit N-5) and a letter of protest (Exhibit N-4). Mr. Norton stated that he resides at 1522 South Guthrie. He expressed concerns with the intrusion of a commercial use into a residential neighborhood. He commented that once the line is crossed you lose the ability to stabilize the neighborhood. The restrictions that the applicant is seeking relief from are in place to keep OL out of neighborhoods. He requested the Board to deny this application. Mr. Norton informed the Board that the City of Tulsa recently allocated 4 million dollars of the third penny sales tax to develop residential property at 11<sup>th</sup> and Denver, which is four blocks away from the subject property.

**Comments and Questions:**

Mr. Dunham stated he has heard enough with regard to this application and the applicant will have to convince him not to deny this application.

Ms. Turnbo stated she agrees with Mr. Dunham.

**Applicant's Rebuttal:**

**Mr. Guerrero** stated he did not feel he could convince the Board to approve this application without a chance to talk with the people who have objections. He indicated that he did try to contact the surrounding neighbors. Mr. Guerrero concluded that the application is a unique situation and the appearance of the existing home will enhance the residential nature of Elwood. He commented that the existing home will create a buffer between the commercial uses on Denver and the residential neighborhood.

**Additional Comments:**

Ms. Turnbo stated she has never read a case where you save one building that has the potential to destroy a neighborhood. She indicated that Elwood is not a through street and this neighborhood is coming back very strongly. She commented that by restoring the existing home and using it for office, you have the potential of destroying the neighborhood.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** a **Special Exception** to allow office uses in a RM-2 District. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11; a **Special Exception** to remove the screening requirements. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Use Conditions** and a **Variance** of off-street parking setbacks from abutting streets. **SECTION 1302. SETBACKS**, 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:

Case No. 17910 (continued)

Lots 13 & 14, Block 3, TTT Addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17911.**

**Action Requested:**

Special Exception to allow office uses in a RM-2 District. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11, a Special Exception to remove the screening requirements on the west property line. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Use Conditions** and Variance of the off-street parking setback from an abutting street. **SECTION 1302. SETBACKS**, located 1402 East 14<sup>th</sup> Street.

**Presentation:**

The applicant, **Greg Guerrero**, 2223 East 20<sup>th</sup> Street, submitted a site plan (Exhibit O-1) and stated that the notice mailed out reflects the address on the subject property as 1402 East 14<sup>th</sup> Street and the actual address is 1402 South Rockford. He assured the Board that the legal address was correct. The subject property is located on the SW/c of 14<sup>th</sup> and Rockford.

**Comments and Questions:**

Mr. Beach informed the Board and applicant that the actual application was made as 1402 East 14<sup>th</sup> Street and that is how the property was advertised. He commented that it appears to be the same property as the legal description.

Mr. Romig stated that the notice provision deals with the legal description of the subject property and the street addresses are an approximate location of the property. This appears to be the same property according to the legal and approximate street address.

**Presentation: (continued)**

Mr. Guerrero stated that the subject property is located in a multi-family residential area and he has been informed that redevelopment can accommodate either medium intensity residential or office developments. The subject property contains a duplex, a garage apartment and a triplex. He indicated that there is enough parking on the subject property for one vehicle. The applicant proposes to remove the triplex and the garage apartment in order to provide parking. He stated that there is no problem with the screening requirement, except on the west side of the subject property there is an alley and he would like access from the parking lot back and forth to the alley.

**Comments and Questions:**

Mr. Stump indicated that the parking spaces on the site plan are only 6' wide and are not to scale.

Mr. Guerrero stated that the subject property will hold 9 parking spaces in the area indicated.

**Interested Parties:**

**Paul Atkins, IV**, 1638 East 17<sup>th</sup> Place, represented Swan Lake Neighborhood Association, stated he was called by the surrounding neighbors. The neighbors have no problem with the apartment building, but they are opposed to the commercial zoning. He stated that the neighbors feel that any more encroachment will encourage the commercial OL and eventually CH. He requested the Board to deny the Special Exception requesting office use in an RM-2 district.

**Applicant's Rebuttal:**

**Mr. Guerrero** stated that there is a significant difference in intensity between a commercial use and light office use. He reiterated that the proposal does fall within the special development sub-area. The City has recognized that the area between 15<sup>th</sup> Street and the expressway is not quite the same as properties located in the Swan Lake area.

**Comments and Questions:**

Mr. Cooper asked the staff if the applicant actually has nine parking spaces? Mr. Stump stated the applicant does not have nine parking spaces. The applicant indicates a 5' moving lane and you cannot get a car through a 5' lane. He will have a 5' setback on one side and it doesn't appear that a double row of parking will fit in a 45' wide area.

Mr. Bolzle stated that the Comprehensive Plan has recognized that the subject area is substantially different from the area between Utica and Lewis, which the City would like to preserve as a single family residential area. The subject half mile area has been recognized as an area that will have to accommodate overflow parking from the CH businesses. The subject property is abutting a freeway and is reasonably used as office.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent" to **APPROVE** a **Special Exception** to allow office uses in a RM-2 District limited to the existing duplex building. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11, a **Special Exception** to remove the screening requirements on the west property line. **SECTION 1211.C. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Use Conditions and Variance** of the off-street parking setback from an

Case No. 17911 (continued)

abutting street. **SECTION 1302. SETBACKS**; subject to the triplex and single family garage building are removed; AND **CONTINUE** balance of Case No. 17911 to allow the applicant to file a variance for the required parking spaces.

On **AMENDED MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to include the **APPROVAL** of a **Variance** of the off-street parking setback to 30' from the centerline. **SECTION 1302. SETBACKS**; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

Lot 1, Block 6, Bellview Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17912**

**Action Requested:**

Variance of setback from a non-arterial street from 55' to 45' to allow construction of a car wash. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** – Use Unit 17, located 4001 South Sheridan.

**Presentation:**

The applicant, **Robert M. Compton**, 11357 East 60<sup>th</sup> Place South, submitted a site plan (Exhibit P-1) and stated he purchased the subject property in order to install a car wash, which is in an IL zoned district. He explained to the Board that the car wash needs a ratio of 3 to 1 self-service bays to automatic bays in order to keep traffic from backing up on the street. He stated that in order to install six self-service bays and the two automatics he will need an additional 10' from the building line on the north side.

**Comments and Questions:**

Mr. Bolzle commented that the more service bays installed the more traffic is brought onto the site.

Mr. Compton stated that the traffic on the street determines how much business will come onto the site. He explained that he has found that you need a 3 to 1 ratio of self-service bays (three service bays for every one automatic bay) to keep traffic from stacking in the street. He commented that all of his locations are built on this ratio and it works.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of setback from a non-arterial street from 55' to 45' to allow construction of a car wash. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** – Use Unit 17; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 1, Block 1, Pettigrove Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17913**

**Action Requested:**

Variance of the required front yard from 50' to 44' to allow construction of a garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6, located 6119 South Utica Place.

**Presentation:**

The applicant, **Brian D. King**, 6119 South Utica Avenue or Place (according to maps), submitted a site plan (Exhibit Q-1) and stated that this will not be a three-car garage because he is putting a utility room and a bathroom in half of the existing garage. He explained that he is trying to expand the garage as proposed in order to make the house look as though it had not been added on to. He indicated that his north neighbor sets back 44' and his existing house sets back 48.5'. There are two houses on this part of the street and the house is setting at an angle. He stated the roof line will be the same and have the same brick as the existing house.

**Comments and Questions:**

Mr. Bolzle asked the applicant why the garage cannot be setback 2' more than proposed? Mr. King stated that he is trying to make the addition to look natural and not added on.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required front yard from 50' to 44' to allow construction of a garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** – Use Unit 6; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 6, Block 1, Southern Hills View, City of Tulsa, Tulsa County, Oklahoma.



## **Case No. 17914**

### **Action Requested:**

Special Exception to allow a 120' cellular tower in an AG zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** – Use Unit 4, located South & West, SW/c East 111<sup>th</sup> Street & South Yale Avenue.

### **Presentation:**

The applicant, **Jon Brightmire**, represented by **Kevin Coutant**, 320 South Boston, representing **U.S. Cellular**, submitted an application packet with photographs and site plans (Exhibit R-1). Mr. Coutant stated that the subject property is zoned AG with RS districts along the north, south and west. The subject property is located on a parcel that is undeveloped with asphalt two-lane roads. He indicated that the residential homes are located to the south of the subject site. Directly across from the access road to the proposed tower is one residence in the open area which sets back off the road. Mr. Coutant proposes to erect a 120' cellular tower, which is a wood tower with slim-line antennas measuring 1' wide and 6' tall. The slim-line antennas are installed at the top on three sides of the tower. He explained that there have been two collocation sites engineered into the pole to allow two additional slim-line antenna installations for other cellular or PCS providers. Mr. Coutant informed the Board that U.S. Cellular has a collocation tenant who has committed to the site, which is AT&T. The site plan does not show the building that would be required to accommodate the collocation because the agreement with AT&T was obtained after the application was filed. Mr. Coutant requested the Board to consider an approval per site plan with a footnote that a second building of similar size is approved for location within the fenced in area (50'x 50'). The setbacks from residential zoning are 140' to the west, 200' to the south, 125' to the centerline of 111<sup>th</sup>. The tower is necessary because the existing towers are full and there is a lot of demand in the area. The new tower will eliminate dropped calls and static in the area. Mr. Coutant described the 120' tower as a medium height tower which is calculated to provide coverage for approximately 1 ½ mile radius area. He informed the Board that there is a tower in the same general area owned by Nextel. Nextel has built a tower on the Indian lands and did not have to go through the usual approval process. Mr. Coutant stated that there is a smoke shop on the same Indian land with the 185' monopole tower and there are three additional towers on this same site. He commented that the three towers are temporary and will be removed according to the land owner. He indicated that the users on the existing three towers will be moved onto the new 185' tower. He stated that he did talk with owner of the tower on the Indian land and it is very expensive to rent space on the 185' tower. He explained that there is a four-party arrangement to rent space on the 185' tower. Nextel will only lease for a total of 10 years and a co-lease agreement is fixed for only five years. He stated that U.S. Cellular leases for a commitment of at least 20 years. Mr. Coutant stated that U.S. Cellular had the subject property under lease before the 185' tower was erected. He reiterated that the subject property is undeveloped and the setbacks are good.

**Protestants:**

**Warren Morris**, representing Golda Laner, stated that his client owns five acres and is planning to develop her property. He commented that he contacted INCOG to see what the plans were for the corner and was told the corner property will be residential. He stated that the application will be placing a tower in the middle of residential area. Mr. Morris submitted a letter of protest (Exhibit R-3). He explained to the Board that the proposed tower will be abutting his client's property. He pointed out to the Board that there is a tower across the street that can be utilized, however it will cost U.S. Cellular to collocate. Mr. Morris commented that if there is a tower available, then the applicant should rent from the other tower rather than erecting another tower.

**Ms. Golda Laner**, 4504 E. 111<sup>th</sup> Street, 74137-7503 stated she has 5 acres to the west of the subject property. She explained that her 5 acres is zoned residential, which is in an exclusive residential area. Ms. Laner stated that she objects to the tower being next to her property. Ms. Laner submitted a conceptual plan for the residential area (Exhibit R-4). She concluded that even though the tower is 120' tall, she cannot build a fence tall enough to hide the tower from her view.

**The following represent protestants who expressed the same concerns:**

**Willis Tompsen**, 4990 East 114<sup>th</sup> Place; **Al Braumiller**, 4979 East 113<sup>th</sup> Street South, Stonebridge residential area; **Chris Hines**, 11024 South Urbana; **Sherri Sexton**, 11015 South Urbana; **Susan Randolph**, 11207 South Vandalia; **Ed Luna**, 4819 East 112<sup>th</sup> Street South; **Stan Fields**, 11010 South Toledo; **Lindsay Perkins**, 4735 South Atlanta Place, representing the developers of Lexington Addition; **Barbara Stich**, 4412 East 113<sup>th</sup> Street; **Jim Bradley**, 4911 East 97<sup>th</sup>, representing St. James United Methodist Church; **Barbara Dong**, 4509 East 110<sup>th</sup> Street; **Marilou Hines**, 11024 South Urbana Avenue.

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

Surrounding area is zoned residential; plans to develop single-family residential on the abutting property; currently 4 cellular antennas in the immediate area; existing 185' cellular tower is co-locatable; AG districts restrict towers to 65' height and Code should be enforced; tower is inappropriate to be placed in a neighborhood; nuisance and an eye sore; negative affect on the surrounding property values; security concerns; no reason for additional towers; unattractive; towers need to be in commercial areas; tower being in the homeowners view from their homes and yards; surrounding neighborhoods have restrictive covenants to bury cables, phones, electricity, etc.; towers are 100' above the trees and clutters the view; 1,000' spacing is too close in a concentrated residential neighborhood; surrounding area didn't have a say when the Indian land permitted the 185' tower;

**The following names represent protestants who did not speak:**

**Ellen Hurn's**, 11019 South Toledo Avenue; **Virginia Howard**, 11204 South Winston; **James Ivey**, 11202 South Vandalia; **Doris Darden**, 4979 East 114<sup>th</sup> Place.

**Interested Parties:**

**Jonathan Frye**, representing **AT&T Wireless**, 13801 Wireless Way, Oklahoma City, 73134, stated he supports this application. He explained that AT&T and U.S. Cellular are striving to bring sites into Tulsa that are co-locatable.

**Applicant's Rebuttal:**

**Mr. Coutant** stated there has been a lot of care taken to find a location that is optimal given the esthetic considerations that always surface when in a residential area. He reiterated that the acreage is undeveloped in order to meet the setbacks and distance requirements. The access road does not provide a visual straight shot off of 111<sup>th</sup> into the tower site and provides some camouflage. The tower and the building associated with it is in a very naturally wooded area with the existing trees. He indicated that his client is willing to landscape and screen to the Board's conditions. He explained that he would have to remove existing trees to do new landscaping, but will do so if the Board feels it is appropriate. Use Unit 4, which is what the tower is considered, is a combination of public service type uses and are allowed only by special exception. Mr. Coutant compared the monopole tower to a necessary use such as public utilities or service that is needed to be delivered. He reiterated that the location is a good location and the tower is not in the resident's back yard. Mr. Coutant concluded by asking the Board to approve this application.

**Comments and Questions:**

Mr. Cooper asked the applicant if he deemed the Indian tower to be suitable for his business needs, would he need this tower? Mr. Coutant stated that the issue is more than costs, the Indian tower is confusing and he is not able to acquire an answer about the total cost. He explained that there are a number of parties involved with the Indian tower and the minimum costs that have been mentioned is a multiple of the amount of what is considered acceptable. He stated that the Zoning Code Amendment was not intended to give someone zoning relief, or in this case someone who does not need zoning relief at all, an extraordinary and unfair opportunity to take advantage of another company. He commented that there is a trap in the requirement for collocation and spacing with regards to the towers.

Mr. Cooper asked the applicant if it would be fair to say that he feels he is being held hostage by the Indian tower? Mr. Coutant stated that that would not be an unfair characterization.

Mr. White stated that the City of Tulsa was totally powerless to voice an opinion with regards to the Indian tower.

Mr. Dunham stated he understands the frustration of Mr. Coutant and his client, however it is an undue burden on the surrounding neighborhood to have two towers no matter what the circumstances are.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** Special Exception to allow a 120' cellular tower in an AG zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** – Use Unit 4, finding that the approval of this application will be injurious to the neighborhood and will not be in harmony with the spirit and intent of the Code, on the following described property:

A tract of land in the N/2, NE/4, NE/4, NE/4, Sec. 33, T-18-N, R-13-E, IBM, Tulsa, County, Oklahoma, according to the US Government survey thereof, being more particularly described as follows: Commencing at the NW/c of said NE/4, NE/4, NE/4; thence N 89°58'42" E, along the N line for 25.00'; thence S 0°00'11" W, parallel to the W line for 100.00'; thence N 89°58'42" E, parallel to the N line for 75.00' to the POB; thence continuing N 89°58'42" E, parallel to the N line for 50.00'; thence S 0°00'11" W, parallel to the W line for 50.00'; thence S 89°58'42" W parallel to the N line for 50.00'; thence N 0°00'11" E, parallel to the W line for 50.00' to the POB; AND a tract of land in the N/2, NE/4, NE/4, NE/4, Sec. 33, T-18-N, R-13-E, IBM, Tulsa County, Oklahoma, according to the US Government Survey Thereof, being more particularly described as follows: Beg. at the NW/c, of said NE/4, NE/4, NE/4; thence N 89°58'42" E, along the N line for 25.00'; thence S 0°00'11" W, parallel to the W line for 100.00'; thence N 89°58'42" E, parallel to the N line for 75.00'; thence S 0°00'11" W, parallel to the W line for 25.00'; thence S 89°58'42" W, parallel to the N line for 100.00' to a point on the W line; thence N 0°00'11" E, along the W line for 125.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17915**

**Action Requested:**

Special Exception to amend a previously approved site plan. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; a Variance to allow parking on a lot other than the lot for the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, and a Variance of landscape requirements along N. Victor Avenue. **SECTION 1002.A.1. LANDSCAPE REQUIREMENTS**, located 1002 North Victor.

**Presentation:**

The applicant, **Mary Womble**, represented by Danny Mitchell, 4111 South Darlington, Suite 140, submitted a site plan (Exhibit S-1) and stated that the owner's business has increased and needs to extend his building 20' to the east. He explained that the owner of the subject property also owns the lot immediately north and abutting the subject property. The owner also owns the property to the west, which is across the

Case No. 17915 (continued)

alley. The off-street parking from the east side of this building would be head-in, immediately off the street, to which Mr. French, City Traffic Engineer, has agreed. Mr. Mitchell submitted photographs (Exhibit S-2). He indicated from the pictures several properties in the immediate area that are built to the property line, which have parking head in, in the street right-of-way. He explained that Traffic Engineering will no longer allow this type of parking. The subject property can accommodate parking by driving straight in, however by doing so the landscaping and street frontage requirements cannot be met.

Mr. Cooper asked the applicant to state the hardship for the Variances requested. Mr. Mitchell stated that due to the nature of the size of the business and the entire area is older and does not conform to today's Code. He requested approval to build in substantial compliance with what the neighbors have done in the immediate area. He commented that he is actually coming closer to the Code than the neighboring properties.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE Special Exception** to amend a previously approved site plan. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; a **Variance** to allow parking on a lot other than the lot for the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, and a **Variance** of landscape requirements along N. Victor Avenue. **SECTION 1002.A.1. LANDSCAPE REQUIREMENTS**; per plan submitted; finding that the size of the business is small and finding that the subject area is an older area and does not conform to Code; 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. 17917**

**Action Requested:**

Special Exception to allow a manufactured home in an AG zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** and a Variance of the one year time limitation to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, 2525 East 54<sup>th</sup> Street North.

**Presentation:**

The applicant, **Doris Johnson**, present.

**Comments and Questions:**

Mr. Beach explained that staff incorrectly advertised the property as an AG zoned district and it is actually an RS-3 zoned district. This case will have to be re-advertised with the correct zoned district. Mr. Beach informed the Board that the staff has already re-advertised with the corrected zoning and can be heard on January 27, 1998.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-1 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", Cooper "abstention"; none "absent") to **CONTINUE** Case No. 17917 to January 27, 1998 at 1:00 p.m.

**Case No. 17918**

**Action Requested:**

Special Exception to permit the operation of a counseling practice in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11; a Variance of the setback from the centerline of abutting streets requirement from 25' to 16.2' on the W., 25' to 6.0' on the S. **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS**; a Variance of the setback from an abutting R district from 10' to 2.2' on the E., 5.5' to the N and 6.0' on the S. **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS**; a Variance from the off-street parking requirements from 4.83 parking spaces to 3 parking spaces. **SECTION 1211.D. OFFICES, STUDIOS AND SUPPORT SERVICES; OFF-STREET PARKING AREAS**; a Variance of the drive area requirement from 24' to 0' to allow the area to be paved with access from the street. **SECTION 1303.A.2.c. & d. Figure 4. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, Or in the Alternative: A Variance of the drive area requirement from 12' to 0' to allow the area to be paved with access from the street. **SECTION 1303.A.2.c.&d. Figure 1. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 1521 South Carson Avenue.

**Presentation:**

The applicant, **Charles Plake**, 616 South Main Street, representing **Dr. Patrick Newman**, submitted a site plan (Exhibit U-1) and stated that his client has entered into a contract to purchase the subject property contingent upon the approval of the necessary relief from the Board. He explained that his client would like to operate his counseling practice at the subject location. He indicated that he has contacted several neighbors in the immediate area. Mr. Plake submitted a petition of support from the neighbors (Exhibit U-2) and photographs of the subject property (Exhibit U-3). The subject property is a small two-bedroom home in an RM-2 district and there are several businesses in the immediate area. He characterized the subject area as being in transition from a residential area to light office uses. The Comprehensive Plan contemplates that the subject property will be used as light office space. He stated that his client's practice will not be detrimental to the neighborhood in any way. Mr.

Plake questioned whether he needed the Variance of the required setback from the centerline of abutting streets from 25' to 16.2' on the west and 6.0' on the south. He stated that his client can provide three parking spaces at the rear of the subject property, which is where the driveway is currently located in front of the garage as shown on the site plan marked Exhibit I. Exhibit II of the site plan indicates a parking space in the front yard and some of the neighbors are in opposition to that part of the application. He informed the Board that his client's practice is not in any way drug or alcohol counseling. Mr. Plake described his client's practice as an upscale private practice, which will be a benefit to the community.

**Comments and Questions:**

In response to Mr. Dunham, Mr. Plake stated that there will be no alterations made to the structure and the exterior will remain as it presently exists.

Ms. Turnbo asked the applicant what the office hours will be for the subject property? Monday through Thursday, 10:00 a.m. to 6:00 p.m.

Mr. Cooper asked the applicant how his client intended to identify himself as a business? Mr. Plake stated that there will be a small sign on the front door, however there will no signs on the street.

Mr. Plake informed the Board that his client was prepared to erect the required screening, however, after talking with the two neighbors, he found that the neighbors are opposed to the screening.

Mr. White asked the applicant how many people will be employed by his client? Mr. Plake indicated that it will be Dr. Newman and a part-time secretary.

Ms. Turnbo asked the applicant if his client is expanding the drive? Mr. Plake answered affirmatively.

**Interested Parties:**

**Pat Fox**, 1611 South Carson, stated he lives immediately south of the subject property and is in support of the special exception use. He expressed concerns with the variance for the parking and would like to retain the single-family character in the neighborhood. He stated that he is in favor of the site plan labeled Exhibit I because the additional parking space in the front would be a detriment to the character of the neighborhood.

**Robin Johnson**, Route 3, Hulbert, Oklahoma, stated she owns the property directly across the street at 1522 South Carson, as well as the properties located at 1515 South Carson and 1519 South Carson. She commented that she has a vested interest in the subject neighborhood and she does not feel that this is a neighborhood in transition. She stated that it is a residential neighborhood and the more OL encroaches the neighborhood it will cause problems. She requested the Board to deny this application and maintain the residential character of the neighborhood.

**Larry Thomas**, 1606 South Cheyenne, expressed similar concerns of previous protestants. He commented that the home has been a residence in the past and should remain a residence. He stated he opposes the front yard being paved for a parking space.

**Jean Lemmon**, 1524 South Cheyenne, opposes the application and did not feel the neighborhood is in a transition.

**Interested Parties:**

**Ronda Paul**, 1605 W. Main, Collinsville, stated she owns Lot 11 & part of Lot 10 on the subject Block. Ms. Paul informed the Board that there are 4 ½ lots that have already converted to commercial zoning. She stated she is in favor of this application.

**George Day**, 25500 East 170<sup>th</sup>, Coweta, stated he is support of this application. He commented that Dr. Newman will be an asset to Tulsa and this will be an appropriate use for the subject area.

**Applicant's Rebuttal:**

**Mr. Plake** stated his client will not be paving the entire lot, only the area in front of the garage to allow for three parking spaces. He reminded the Board that they have granted similar relief in two other cases fairly close by the subject property. Mr. Plake recited a history of other similar applications that were granted in the subject area. He reiterated that the Comprehensive Plan contemplates that this property will be used as light office space. He stated that the neighbors will probably not notice any difference in activity after Dr. Newman's practice is operating. Mr. Plake explained that the application is not changing the zoning to commercial, but requesting light office use in an RM-2 district. He concluded by asking the Board to grant this application.

**Comments and Questions:**

Ms. Turnbo stated that the Comprehensive Plan does not encourage light office use in this District, but it does recognize that north of 18<sup>th</sup> Street is mixed use and does encourage any light office that comes in to keep the nature of the neighborhood. She commented that she has no problem with the application because the hours are very reasonable. Widening the driveway to accommodate three vehicles is understandable, but there is a problem with parking in the front yard. Ms. Turnbo stated that parking in the front yard would be injurious to the neighborhood.



**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-1-0 (Cooper, Dunham, Turnbo, White, "aye"; Bolzle "nays", no "abstentions"; none "absent") to **APPROVE Special Exception** to permit the operation of a counseling practice in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 11; a **Variance** of the setback from the centerline of abutting streets requirement from 25' to 16.2' on the W., 25' to 6.0' on the S. **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS**; a **Variance** of the setback from an abutting R district from 10' to 2.2' on the E., 5.5' to the N and 6.0' on the S. **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS**; a **Variance** from the off-street parking requirements from 4.83 parking spaces to 3 parking spaces. **SECTION 1211.D. OFFICES, STUDIOS AND SUPPORT SERVICES; OFF-STREET PARKING AREAS**; a **Variance** of the drive area requirement from 24' to 0' to allow the area to be paved with access from the street. **SECTION 1303.A.2.c. & d. Figure 4. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, per plan submitted as Exhibit I; subject to the business being a counseling practice; subject to the days and hours being Monday through Thursday, 10:30 a.m. to 6:00 p.m.; subject to there being no signage in the yard; subject to the signage being located on the door; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

W 90', Lot 7, AND W 90' of the S 5' of Lot 8, Block 2, Stonebraker Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17919**

**Action Requested:**

Variance of the required parking from 9 spaces to 4 spaces. **SECTION 1211. OFFICES, STUDIOS AND SUPPORT SERVICES & SECTION 1214. SHOPPING GOODS AND SERVICES; OFF-STREET PARKING AND LOADING REQUIREMENTS**, located 1612 East 15<sup>th</sup> Street.

**Presentation:**

The applicant, **Robert Johnson**, 123 East 21<sup>st</sup> Street, submitted a photographs (Exhibit V-1), a site plan (Exhibit V-2), and architect drawing (Exhibit V-3). Mr. Johnson stated that the subject property is an existing four-unit apartment house, which is vacant. He explained that he has been looking for a good use for the subject building and decided to propose an antique store on the lower level with offices above. He stated that the proposal is compatible with the surrounding area. The parking argument is that when people park to look at antiques they do not move their car from shop to shop. He explained that the customer will park their cars and walk to the

antique stores. The subject building has a block garage in the back and the applicant proposes to tear down the garage. He stated he would be tearing down a block building in the back as well. The front of the building has a sagging bungalow style porch and he proposes to tear down the porch. He proposes to add new siding to the entire building and erect a small porch on the front. Mr. Johnson commented that doing all of the proposals would add to the character in the immediate area. He concluded that three things could happen to this subject property: 1. Leave it vacant and eventually has to be torn down; 2. The property could go back by right as a four unit apartment building; or 3. To find some retail use for the subject property.

**Protestants:**

**Bruce Schultz**, 1915 South Xanthus, stated he owns the property to the west of the subject property. He commented that in the past, customers for the subject building utilized his parking and it is difficult to control. He requested the Board to deny this application.

**Rick Dunkelberg**, 1616 E. 15<sup>th</sup>, stated he owns the property to the east of the subject property. He explained that he also owns a lot south of the subject property at 1511 South Trenton. He stated he shares an alley with the subject property and has concerns with the insufficient parking. He commented that this proposal will be detrimental to the neighborhood.

**Paul Atkins, IV**, 1638 East 17<sup>th</sup> Place, representing the Swan Lake Association of Historical Preservation District, stated that the Swan Lake Association is strongly against the parking variance. Mr. Atkins read a letter of protest to the Board and submitted the letter of protest (Exhibit V-4).

**Comments and Questions:**

Mr. Stump informed the Board that the applicant will need eleven required parking spaces for the proposal because it will be half office and half retail.

**Applicant's Rebuttal:**

**Mr. Johnson** stated that a small store does better business than a large store. He explained that the same thing is true with people being crowded or not crowded. He stated that if the 15<sup>th</sup> Street businesses were to be stretched out it would not be the same place, because people are attracted to the crowds and atmosphere. He informed the Board that the site plan shows there are five parking spaces on the site and two parking spaces in the alley. However, the parking spaces in the alley do not meet the requirements. He indicated that he has a total of nine parking spaces.

**Comments and Questions:**

Ms. Turnbo stated she does not feel that this application is different than the applications in the past on the subject property. She agreed that 15<sup>th</sup> Street or Cherry Street is unique, but you can ruin the atmosphere with the parking issues.

**Board Action:**

On **MOTION** of **TURNBO** to **DENY** a **Variance** of the required parking from 9 spaces to 4 spaces. **SECTION 1211. OFFICES, STUDIOS AND SUPPORT SERVICES & SECTION 1214. SHOPPING GOODS AND SERVICES; OFF-STREET PARKING AND LOADING REQUIREMENTS;**

**Additional Comments:**

Mr. Bolzle stated he has been struggling with this subject property ever since the Board denied the flower shop. The only alternative is to tear down the subject property and there is no reasonable commercial use that would not require a variance. He commented that he has been on Cherry Street a number of times looking at antiques and never has had a problem finding a parking space (without parking in the neighborhood). He stated that he has been to a number of the restaurants and has parked in the neighborhoods to park close by. He reminded the Board that this is not the first applicant that has requested a parking variance. The Board has granted parking variances up and down Cherry Street. The neighborhood supported the Lincoln Plaza that had a very significance parking variance and has created one of the worst parking problems that exist on Cherry Street. This is such a small variance and five spaces have been adequately provided. He commented he could not see the impact that a 1300 SF retail space will have on the subject area.

Mr. Cooper stated that there is not enough parking in the area and there will definitely need to be more provided. The applicant is 50% short and will need twice as much parking space. He stated that he would have to vote to deny this case because of the shortage of parking. Mr. Cooper seconded Ms. Turnbo's motion to deny this application.

On **MOTION** of **TURNBO**, the Board voted 4-1-0 (Cooper, Dunham, Turnbo, White, "aye"; Bolzle "nays", no "abstentions"; none "absent") to **DENY** a **Variance** of the required parking from 9 spaces to 4 spaces. **SECTION 1211. OFFICES, STUDIOS AND SUPPORT SERVICES & SECTION 1214. SHOPPING GOODS AND SERVICES; OFF-STREET PARKING AND LOADING 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:

E 40' of Lots 15 & 16, Block 3, Orcutt Addition, City of Tulsa, Tulsa County, Oklahoma.

## **Case No. 17920**

### **Action Requested:**

Variance of the Major Street and Highway Plan ROW requirement. **SECTION 214. MAJOR STREET PLAN & SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and a Special Exception for drive-in use. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 18, located East side of Union, North of West 49<sup>th</sup> Street South.

### **Presentation:**

The applicant, **Sack & Associates, Inc./Ted Sack**, 111 South Elgin, representing the NEO Properties/Sonic, submitted a site plan (Exhibit W-1) and stated the subject site is north of 49<sup>th</sup> and Union. He indicated that the subject site has 150' of frontage on Union and 175' of depth. He explained that after talking with Traffic Engineering he has learned that the variance of the Major Street and Highway Plan ROW requirement is not needed. Mr. Sack withdrew the variance and indicated that he needs the special exception to allow the drive-in restaurant in a CS district. He explained that a fast food restaurant such as McDonald's could be placed on the subject property without any approval required. Mr. Sack commented that the staff had some concerns with the canopy and canopies are not classified as buildings. Therefore, the canopy does not need to meet the building setback as long as they are not attached to the building. He assured the Board that the canopy is not attached to the building and therefore it is not subject to the setback. Mr. Sack stated he has met with the residents to the east of the subject property. He indicated that the owner of Lots 10-12 is in support of this application, as well as the resident of Lot 8.

### **Comments and Questions:**

In response to Mr. Bolzle, Mr. Sack stated that the canopy is not attached to the building. He compared the canopy to convenience stores who have canopies that are not attached.

Mr. Stump stated that the Board of Adjustment previously made a ruling that unattached canopies would not have to meet the building setback requirements.

### **Protestants:**

**Terry Jones**, 4760 South Tacoma Avenue, stated he owns the property, which is directly behind the subject lot. He indicated that everyone on the block with the exception of the owners for Lots 10-12 is opposed to this application. Mr. Jones gave a lengthy detail of the various restaurants and fast food establishments in the immediate area. He expressed concerns with excessive lights and noise that would be associated with the proposal. He commented that the proposal will be a detriment to the neighborhood.

**Flora M. Oxford**, 4750 South Tacoma, stated that the restaurant will be behind her property. She opposes this application because of the noise this proposal will generate. She explained that late night businesses are disturbing to her and the neighborhood.

**Applicant's Rebuttal:**

**Ted Sack** stated that to the north there is a strip shopping center and there is an existing stockade fence, which is in a state of disrepair. He indicated that Sonic will install a new fence. He informed the Board that there is a car wash and old service station, which was a 24 hour use. Sonic will be opened Sunday through Thursday from 10:00 a.m. to 11:00 p.m. and Friday and Saturday from 10:00 a.m. to 12:00 a.m. The lots to the east are extremely deep and the residents are out adjacent to the street. He explained that there is good separation because the lots are 200' deep instead of 120'. The lots are heavily wooded and there are several pine trees in the backyards that will help screen the residential area. Where Sonic will be backing up to the residential homes the banding of neon will be eliminated on the rear (east side that abuts the residential). Mr. Sack commented that a fast food restaurant could go onto the subject site and run 24 hours a day by right.

**Comments and Questions:**

In response to Mr. Dunham, Mr. Sack stated that the Variance has been withdrawn.

Mr. Stump asked the applicant if the east boundary parking spaces were for customers or for employee parking? Mr. Sack stated that it will be employee parking on the east boundary and no food service.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **WITHDRAW** a **Variance** of the Major Street and Highway Plan ROW requirement. **SECTION 214. MAJOR STREET PLAN & SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and **APPROVE** a **Special Exception** for drive-in use. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 18, per plan submitted; subject to there being no neon lights along the back of the building; subject to there being no food service on the east boundary, subject to days and hours as follows: Sunday through Thursday, 10:a.m to 11:00 p.m., Friday through Saturday 10:00 a.m. to 12:00 p.m.; finding that the approval of this application will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will be in harmony with the spirit and intent of the Code, on the following described property:

E. 185', N 150', S 300', Lot 3, Block 3, Suburban Highlands, City of Tulsa, Tulsa County, Oklahoma.

## **Case No. 17921**

### **Action Requested:**

Request to allow Use Units as permitted by right under CS zoning, excluding 12a. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Units 12, 13, 14 & 19 and a Variance of frontage requirement. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**, located East 41<sup>st</sup> Street South & I-44, SE/c.

### **Presentation:**

The applicant, **Sack & Associates, Inc./Ted Sack**, 111 South Elgin, submitted a site plan (Exhibit X-1) and stated that this application has been before the Board on several occasions. He explained that the proposal is an alternative site plan, which is similar to previously approved site plan. He pointed out to the Board that the only exception to the new proposal is the exclusion of a triangular piece of property. He stated that the purchaser of the subject property could not make a deal on the triangular tract. He indicated that John Eshelman, Traffic Engineering, has reviewed the plan and felt it was still a workable plan.

### **Comments and Questions:**

In response to Mr. White, Mr. Sack stated that the variance on the frontage is the same as before.

### **Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a Request to allow Use Units as permitted by right under CS zoning, excluding 12a. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Units 12, 13, 14 & 19 and a **Variance** of frontage requirement. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; per plan submitted; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

N 855', Lots 4-6, Amended Plat of Tulsa View Addition, to the City of Tulsa, Tulsa County, Oklahoma, LESS the N 25' thereof and LESS the following described property taken for road purposes, to-wit: Beg. at a point on the Wly line of Lot 6, said point being 97.36' S of the NW/c thereof; thence N 48°34'30" E for 148.77' to a point on the N line of said Lot 6; thence Wly along said N line for 112.49' to the NW/c thereof; thence Sly along the Wly line of said Lot 6 for 97.36' to the POB, City of Tulsa, Tulsa County, Oklahoma.

## **Case No. 17922**

### **Action Requested:**

Variance to permit an outdoor advertising sign 60' in height. **SECTION 1221.F.15. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS**; a Variance of permitted display surface area. **SECTION 1221.D.3. CS DISTRICT USE CONDITIONS FOR BUSINESS SIGNS** and a Variance of the setback from residential district. **SECTION 1221.F.4. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS**, located SW/c Charles Page Boulevard & IDL.

### **Presentation:**

The applicant, **Roy D. Johnsen**, 201 West 5<sup>th</sup> Street, representing the Dan Buford Family, submitted a site plan (Exhibit Y-1) and stated the subject application deals with outdoor advertising. The subject property, acquired approximately 10 years ago, contained a burned out structure that was torn down. He explained that the frontage along Charles Page Boulevard is zoned CS and the east boundary is adjoining the expressway, which is elevated as it goes over Charles Page Boulevard. An outdoor advertising sign must be located within what is known as a Freeway Sign Corridor, which is 400' along public freeway right-of-way. Mr. Johnsen stated that the staff has computed on the subject property that 405 SF of display surface area would be permitted, however the standard outdoor advertising sign is 672 SF. He explained that the subject property is unique because at one time the property had been platted into small lots and the expressway came later, which created small lots that are not useable. Mr. Johnsen proposes to take frontage on the south side of Charles Page Boulevard and consider it as a whole, computed under the normal 2 SF of display surface area per foot of frontage. With this concept the proposal would be permitted with a sign measuring 672 SF, which would be located adjacent to the expressway. Mr. Johnsen stated his client will limit his signs within the Freeway Sign Corridor to the 2 SF per lineal foot of frontage he has. The computation, disregarding streets, would come to 357' of frontage times 2 SF, which would be 714 SF of permitted signage. His client is proposing to build a standard outdoor advertising of 672 SF and there would be 42 SF of signage left. He explained that if the three lots were developed commercial without limitation, each could have a sign and the impact on the neighborhood would be greater.

### **Comments and Questions:**

Mr. Bolzle asked the applicant if he addressed the hardship for the required setback from the residential district? He stated the lots were zoned several years back and platted for single-family. The expressway then came into the area and there is no suburban location where setbacks can be achieved. He explained that his client owns the property to the south and west. The properties to the north are zoned commercially. He stated that there is one lot affected that the Buford Family does not own, which is a rental property in bad shape.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **APPROVE** a **Variance** to permit an outdoor advertising sign 60' in height. **SECTION 1221.I.15. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS**; a **Variance** of permitted display surface area. **SECTION 1221.D.3. CS DISTRICT USE CONDITIONS FOR BUSINESS SIGNS** and a **Variance** of the setback from residential district. **SECTION 1221.F.4. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS**; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Lot 2, Block 8, Crosbie Heights, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17924**

**Action Requested:**

Variance to locate a bar within 300' of another bar. **SECTION 1212a.C.3.c. ADULT ENTERTAINMENT ESTABLISHMENTS; USE CONDITIONS**; and a Variance to utilize off-street parking across alley to satisfy parking requirements. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 1314 East 3<sup>rd</sup> Street.

**Presentation:**

The applicant, **Joseph A. McCormick**, 601 Park Tower, 5314 South Yale, submitted a site plan (Exhibit Z-1) and stated he represents R & M Music Company. His client would like to establish a bar in an existing building on Lots 7-9. He explained that his client will utilize the lots behind the subject building for parking, which are located on Lots 12 & 13 across the alley. Mr. McCormick stated his client will meet the parking requirement if he allowed to use the parking across the alley. He indicated that there is presently a bar located on Lot 1 and there are five 50' lots between the two buildings. Lot 2, which is west of the existing bar, is used as a parking lot for the existing bar. He explained that if his client's building was turned around and was on Lot 9 with parking on Lot 7, he would have plenty of distance between them. He stated that the subject building is built on Lot 7 and 8 with parking located on Lot 9.

**Comments and Questions:**

Mr. Cooper asked the applicant if he knew the distance between the existing bar and the proposed bar? Mr. McCormick stated the new bar would be 250' from the existing bar.



**Protestants: The following names represent protestants with similar concerns:**

**Dave Sanders**, 624 South Denver, submitted photographs (Exhibit Z-3); **Marjorie Conley**, 325 South Quincy; **Lou Reynolds**, 2727 East 21<sup>st</sup> Street.

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

No hardship shown that would warrant an approval of the variance; local car museum experiences trash being dumped on their property from the existing bar and does not want another bar so close to the museum; business owners experience trash being in their lots from the existing bar; the proposed bar will be a detriment to the area; having to fence in lots for security; there are no extraordinary conditions that apply to the subject property.

**Protestants: The following represent protestants who did not speak:**

**Dennis & Helen Murdock**, 2420 East 23<sup>rd</sup> Street; **Ann Isaacs**, 6903 West 34<sup>th</sup>; **C. Harwalter**, 1413 East 3<sup>rd</sup> Street.

**Applicant's Rebuttal:**

**Mr. McCormick** stated that the subject property is surrounded by an industrial area and all of the properties surrounding the proposed bar are industrial. He indicated that his hardship is the fact that the subject building is located on two of three lots in the wrong area in order to be far enough away from the existing bar. He stated the only parking available is the parking across the alley.

**Comments and Questions:**

**Ms. Turnbo** reminded the Board that a letter of protest was submitted from Councilman Watts (Exhibit Z-2) and it indicates that not only residents are protesting, but also businesses.

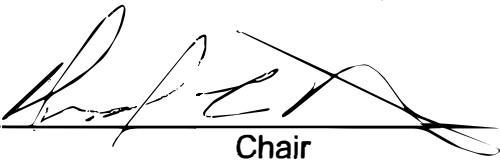
**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Bolze, Cooper, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; none "absent") to **DENY** Variance to locate a bar within 300' of another bar. **SECTION 1212a.C.3.c. ADULT ENTERTAINMENT ESTABLISHMENTS; USE CONDITIONS**; and a Variance to utilize off-street parking across alley to satisfy parking requirements. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL 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:

Lots 7, 8, 9, 12 and 13, Block 17, Lynch & Forsythe Addition, City of Tulsa, Tulsa County, Oklahoma.

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

Date approved: FEBRUARY 24, 1998

  
Chair