

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 742  
Tuesday, January 27, 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 Chronister Huntsinger Stump	Ballentine, Code Enforcement Parnell, Code Enforcement Romig, Legal Department
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The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, January 23 1998, at 8:58 a.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.

**UNFINISHED BUSINESS**

**Case No. 17805**

**Action Requested:**

Special Exception to allow an existing auto body repair shop in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 439 South Sheridan Road.

**Presentation:**

The applicant, **Merl A. Whitebook**, submitted a letter requesting a continuance (Exhibit A-1).

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17805 to March 24, 1998, at 1:00 p.m.

**Case No. 17917**

**Action Requested:**

Special Exception to allow a manufactured home in an RS-3 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**, 4707 South Madison Avenue, 74105, submitted a site plan (Exhibit B-1) and stated she purchased the subject property from her church. She indicated she would like to move a doublewide trailer home on the lot and make it her permanent residence. She stated that there are trailers in the immediate area and the area is a rural area.

**Comments and Questions:**

Mr. Bolzle asked the applicant if the mobile home would be on a permanent foundation? She answered affirmatively.

Mr. White asked the applicant if the two existing structures on the subject property would be removed? Ms. Johnson stated one of the buildings is a storage building and she would like to keep the storage building. She explained the other structure would be remodeled and made into efficiency for her daughter.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow a manufactured home in an RS-3 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**; per plan submitted; subject to the wheels and tongue being removed from the trailer; subject to the trailer being placed on a permanent foundation; subject to tie downs and skirting; subject to the Health Department approval and a building permit; finding that there are other mobile homes in the immediate area and this will not be a detriment to the neighborhood; 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/2, S 231', SW, SE, NW, NW, City of Tulsa, Tulsa County, Oklahoma.

## NEW APPLICATIONS

### Case No. 17923

#### Action Requested:

Special Exception to allow a manufactured home in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a Variance of the one-year time limit to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, located 2111 West 42<sup>nd</sup> Court.

#### Presentation:

The applicant, **Paul Baker, Jr.**, represented by **William Abshire**, 2115 Mercury Court, Bartlesville, submitted a site plan (Exhibit C-1) and photographs (Exhibit C-2). Mr. Abshire stated he is a Trustee for Mr. Paul Baker and will speak on his behalf. He proposed to remove a 600 SF home that has been on the subject property since the 1930's. He stated he would be moving a doublewide home to be placed on a permanent foundation.

#### Comments and Questions:

Ms. Turnbo asked the applicant if the structure will be 28' x 44' and a 12' x 20' garage. He answered affirmatively.

Mr. White asked Mr. Abshire to elaborate on the difference between a mobile home and a manufactured home? Mr. Abshire stated the proposal is not a mobile home. He explained that the walls are 2 x 4 with a pitched roof and meets current codes.

#### Protestants:

**Darla Hall**, City Councilor for District #2, stated she protests this application. She commented in her opinion, as an insurance agent, the proposal is a mobile home. It is a doublewide mobile home that will be on a permanent foundation, but is still a mobile home. She explained that in the insurance industry, no matter what you do with a mobile home it is still rated as mobile home. Ms. Hall concluded that mobile homes do not belong in residential districts with established stick built homes. She indicated that there are no other mobile homes in the area and this will be detrimental to the area.

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

**Hazel Castner**, 2103 West 42<sup>nd</sup> Court; **Marie Simmons**, 2104 West 42<sup>nd</sup> Court.

#### Interested Parties:

**Beverly Clark**, 2111 West 42<sup>nd</sup> Street, stated she viewed the proposed trailer and did not feel it looked like a trailer. She indicated the proposal would improve the subject property.

**Applicant's Rebuttal:**

Mr. Abshire stated the proposed structure is not built like a mobile home. He commented the insurance codes are their own codes. He explained that the proposed structure would be as sound as a stick built home. He concluded the proposal would be a quality improvement to the neighborhood.

**Comments and Questions:**

Mr. Dunham asked the applicant if the proposed structure will be on a permanent foundation? Mr. Abshire answered affirmatively.

Ms. Turnbo stated she did not see any mobile homes nor manufactured homes in the immediate area when she viewed the subject property. She commented that she cannot find any manufactured homes on the aerial map either.

Mr. Bolzle stated the Board has been careful in the past to locate manufactured homes in areas that have traditionally large lots, such as the previous case, or areas that are sparsely populated and areas where there is abundance of existing manufactured homes. None of these instances exist here and suggested the case be denied.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **DENY** a **Special Exception** to allow a manufactured home in a RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** – Use Unit 9 and a **Variance** of the one-year time limit to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request and 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:

Legal Description: Lot 11, Block 6, Clinton Home Addition to Red Fork, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17925**

**Action Requested:**

Variance to allow required parking on a lot other than lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS**, located 3939 South Harvard.

Case No. 17925 (continued)

**Comments and Questions:**

In response to Mr. Beach, Mr. Romig stated the parking variance has to be approved by the Board. He concluded that the lot containing the parking will have to be included in the legal description and notice.

**Presentation:**

The applicant, **Barry B. Smith/Artech, Inc.**, represented by **John Crouse**, who was present.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17925 to February 10, 1998, at 1:00 p.m.

**Case No. 17926**

**Action Requested:**

Special Exception to allow Use Unit 2, Governmental Service facility in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Unit 2, located 527 South Utica.

**Presentation:**

The applicant, **Patricia Turney**, 1206 North Garfield, Sand Springs, submitted a site plan (Exhibit D-1) and stated she is trying to convert an industrial building into a small WIC grocery service. She explained that WIC is a program for women, infants and children. The retail area will be approximately 1,000 SF for coolers to store milk, eggs and cheese. There will also be freezer units to store frozen juices and shelving units to store the dry goods.

**Comments and Questions:**

Mr. Bolzle asked the applicant if the customers or clients come to the location to pick up their supplies? She stated the customers come to the location.

Ms. Turnbo asked the applicant how many employees will be on the site? She explained that there will be no more than three employees at the subject location at any one time.

Ms. Turnbo asked the applicant how many clients are listed with her service? Roy Simmons, 1823 Three Stars Road, Edmond, stated he has two WIC stores in the Oklahoma City area. WIC is a federal nutritional program sponsored by the Department of Agriculture. There are no open products and the only products in the store are the products approved for WIC by the USDA. This is administered through

the State Health Department. He explained that the program is primarily to help pregnant women, postpartum women and children under the age of five years old.

Mr. Dunham asked the applicant what the days and hours of operation will be for the proposed retail store? Mr. Simmons stated they will operate five days a week from 8:30 a.m. to 5:30 p.m.

Mr. Bolzle asked Mr. Simmons if the operations in Oklahoma City are similar in size? Mr. Simmons answered affirmatively.

In response to Mr. Bolzle, Mr. Simmons stated his employees will be parking inside the building. He explained that the location was chosen because of the proximity to the City/County Health Department. He indicated that two to three customers at any one time will be the norm. Mr. Simmons concluded that parking has never been an issue at the other sites.

Mr. White asked the applicant for the average number of people in one day will visit the subject property? Mr. Simmons stated there will be 30 to 40 people in one day will visit the subject property, however they are only there for approximately five to ten minutes.

**Interested Parties:**

**John Stott**, 533 South Utica, expressed concerns with the possibility of a semi-truck blocking South Utica for deliveries.

**Howard Bennett, Jr.**, 515 South Victor, stated he lives directly behind the subject property. He expressed concerns with parking and transients being in the neighborhood.

**John Miggins**, stated he owns the property located 442 South Utica. He commented that he would be in favor of the proposed project. He explained that the building has been empty for a couple of years and the area needs some investment.

**Applicant's Rebuttal:**

**Ms. Turney** stated that there are no cash transactions involved because it is by WIC voucher only. The delivery trucks will be inside the garage and there will be no traffic tie up on Utica. She explained that the deliveries occur once a week and last for approximately one hour.

**Mr. Simmons** stated that transients are not involved in WIC programs. He explained that due to the nature of the program it will not draw people who are transients.

Case No. 17926 (continued)

**Comments and Questions:**

Ms. Turnbo stated the WIC program is a very successful program. She commented that the women are not transients.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow Use Unit 2, Governmental Service facility in an IM zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** – Use Unit 2; per plan submitted; subject to the employees parking their vehicles inside the building; 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:

Legal Description: Lots 26 & 27, Block 11, Abdo's Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17927**

**Action Requested:**

Special Exception to allow an automobile quick lube in CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 17 and a Variance of required setback from centerline of Sheridan from 100' to 91'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**, located 6510 East 71<sup>st</sup> Street.

**Presentation:**

The applicant, **James Short**, 305 North Tallchief, Skiatook, submitted a site plan (Exhibit E-1) and stated he would like to add a fast lube business to the existing facility. He explained that he is currently operating a full service car wash and has been located at the subject property for two years. He stated he proposes to add a modular building on the subject property. Mr. Short concluded that having a fast lube business along with a car wash is compatible and is something necessary in order to keep up with the competition.

**Comments and Questions:**

Mr. Bolzle asked Mr. Short if the new building will be placed under the existing canopy. He answered affirmatively.

Mr. Bolzle stated the new building will not be any closer to South Sheridan than the existing canopy.

Case No. 17927 (continued)

**Interested Parties:** None.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow an automobile quick lube in CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** – Use Unit 17 and a **Variance** of required setback from centerline of Sheridan from 100' to 91'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS**, per plan submitted; finding that the variance is for an existing condition that has been place for a number of years without detriment to the community; finding that the requirements for a variance in Sec. 1607.C. have been met, on the following described property:

Legal Description: All of Block 1, Kirkdale Commercial Center, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17928**

**Action Requested:**

Variance of required parking from 36 to 20. **SECTION 2323.D.USE UNIT 12 EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements**, or in the **ALTERNATIVE** a Variance to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING, GENERAL**, located 1624 East 15<sup>th</sup> Street.

**Presentation:**

The applicant, **Steven Jennings**, represented by **Roy D. Johnsen**, 201 West 5<sup>th</sup> Street, Suite 440, submitted a site plan (Exhibit F-1) and conditions (Exhibit F-2). Mr. Johnsen stated he represents St. Louis Bread Company, which is the lessee of the facility known as Able Rents. The subject property is located at the Southwest corner of 15<sup>th</sup> and Troost and is predominately zoned CH. The Board is also aware that historically along 15<sup>th</sup> Street and perhaps Brookside area as well, most of the buildings were constructed and uses commenced prior to the time that parking was required in the CH district. It is not unusual in the subject area that most of the businesses are non-conforming as to parking.

Mr. Johnsen stated he would like to touch upon the Code because it is relevant to the Board's proceedings. Because the subject property is non-conforming at the present time, there is a Code provision that if the property is non-conforming as to parking the property can continue, but if you change the use it requires that the property either comply with the parking requirement for the use it is changing to; or alternatively the



Board has the authority, as a special exception, to modify the parking requirement. The general requirement is that it is a finding that the proposed use creates no greater incompatibility with nearby and proximate properties. He commented that this is a close recitation of what the actual language of the Code states.

Mr. Johnsen stated the basic statistics are as follows: 1.) The site has a building that is 6500 SF; 2.) There is on-site available parking spaces for 19 cars, meeting Code requirements. St. Louis Bread is proposing to use 3600 SF of the 6500 SF for restaurant use. The balance of the subject building would be used for storage, which is permitted in a CH district and the parking requirement is 1 parking space per 5,000 SF. The required parking for the proposal will be 36 parking spaces for the restaurant and one for the storage area, which total 37 required parking spaces. The subject property will be short on required parking spaces.

Mr. Johnsen indicated that there had been productive conversation with the neighborhood people and the Swan Lake Association. They agree that this is a type of use that the neighborhood is generally supportive of. The use is recognized as a quality use and fits the ambiance and desirability of the Cherry Street area.

Mr. Johnsen stated the site plan reflects the proposed facility and shows the existing outline of the building, along with the 19 parking spaces on-site. Immediately to the south of the subject property are two lots, which total 100' of frontage on Troost and 140' east and west. These two lots are owned by Stillwater National Bank, which is surplus property for their banking facility and were not included in the PUD. The vacant lots are zoned Office wherein off-street parking is a use by right and as a principal use. He indicated he has been in negotiation with the bank and a letter has been prepared regarding a 10-year lease for 18 additional parking spaces (Exhibit F-3). He explained that the bank wishes to reserve their right to utilize the two lots if needed. The 18 additional parking spaces are available during the 10-year lease period during off banking hours. He indicated his client will spend close to \$500,000 in rehabilitation and redecorating the subject building. He explained that his client wanted as much assurance from the bank as they could get for the additional required parking. The bank further stated the applicant can use all of the lot during banking hours, subject to their need in the future. He stated his client is going to resurface, landscape and maintain the leased lot, however in the future, if the bank needs the lot for parking his client will not maintain the lot during banking hours.

Mr. Johnsen stated his client has a quality facility, which is a café/bakery. The hours of operation will be 7:00 a.m. to 8:00 p.m. with a significant lunch time business. The proposed facility will not have a bar, live entertainment nor late hours. The type of use and the fact that his client is allowed to use the bank lot during business hours, subject to some future need of the bank, will have a legal right to use the lot when the bank is closed answers much of the question of impact on the neighborhood. The lunchtime

will be the most critical, but that is not when a neighborhood is generally impacted because people are at work.

Mr. Johnsen indicated that he did discuss this proposal with the two residents that will be most affected and both have signed a letter of support. He stated he is trying very diligently to get the expansion parking that is indicated on the site plan under contract. He suggested that if he were successful in getting the expansion parking, he would remove the existing structure and making it a parking area. He explained that if the contract is successful then he would seek the right to expand the restaurant use from 3600 SF to 4200 SF.

Mr. Johnsen stated that there is some on-street parking (estimated 3 spaces) and this does not meet Code, but as a practical matter the spaces are used by customers. Along the east boundary there is a short distance back from 15<sup>th</sup> Street where there is no parking allowed, but then the balance of the property can park on the west side. Mr. Johnsen submitted a list of proposed use conditions (Exhibit F-2) that he would accept if the Board of Adjustment found the application is warranted and the special exception to modify the parking requirements is appropriate. He explained that on the site plan his client needs 18 parking spaces and off-site there are 40 parking spaces available, which will be above Code. The layout is tentative and there is a setback requirement when you abut single-family residential. He explained that his client may lose a couple of parking spaces, however, it will still be significantly above the 18 required parking spaces.

**Comments and Questions:**

**Ms. Turnbo** asked Mr. Johnsen for bank's hours? Mr. Johnsen stated the hours for the bank are 9:00 a.m. to 5:00 p.m., Monday through Friday and Saturday, 9:00 a.m. to 1:00 p.m. He indicated the drive-through window is open until 6:00 p.m. and the drive-through is self-supporting as to parking. The bank would not need the parking spaces while their drive-through is opened. Mr. Johnsen reminded the Board that the proposed restaurant has no drive-in window.

Mr. Bolzle asked Mr. Johnsen if the bank property on the west side of Troost was included in the PUD? Mr. Johnsen answered negatively.

Mr. Bolzle stated there was no requirement in the PUD application for the bank property to be used as parking or remain as parking. The bank is free to do whatever they choose with this property, subject to whatever additional arrangements they might make. Mr. Johnsen agreed with Mr. Bolzle's statements.

**Interested Parties:**

**Tim Fisher**, 1414 East 19<sup>th</sup> Street, Swan Lake Neighborhood Association, stated he reviewed the application and as a result the Association's position is of general support. He commented that the St. Louis Bakery will be a good addition to the Cherry

Street retail area and it is the proper use. He indicated the proposal is more appropriate than some of the previous applications and proposals.

Mr. Fisher read the Comprehensive Plan, Chapter 4.3.3.2 and the Amendment to the Comprehensive Plan, Chapter 3.4.4.4. He stated the Association does not necessarily believe that the application will result in an encroachment or improper use. However, during most of the day and extremely heavy traffic times of the day there is an additional traffic burden on Troost as a result of a prohibited left turn. He explained that the Associations' concern is that by adding an additional business will impact the traffic issue. He stated the residents of Troost between 15<sup>th</sup> and 16<sup>th</sup> have expressed concerns about the traffic.

Mr. Fisher stated that neighbors on Troost are on record from previous discussions with Stillwater National Bank, that they would not object to dead-ending of Troost, south of the proposed variance for the parking lots. Mr. Fisher commented that he realizes that this is not a Board issue, but the association would like to address the traffic issue one more time. Dead-ending Troost would be a viable solution to many of the problems occurring in the area. He commented that by dead-ending Troost it would provide more parking for the businesses in the area and would not affect the neighborhood to the south and west of Troost. He asked the Board to consider, as a condition, the acquisition of the blue house that is a few feet down from the subject property and convert it to a parking lot. Mr. Fisher concluded that under these conditions the neighborhood would be in favor of the application.

**Comments and Questions:**

Mr. Bolzle asked Mr. Fisher if Swan Lake Neighborhood Association appear in protest on the case regarding the blue apartment building? Mr. Fisher answered affirmatively.

Mr. White asked Mr. Fisher if there has been any comment from Traffic Engineering on installing a left turn light? Mr. Fisher stated that the left turn issue was considered and the conclusion was reached that there is no room for a left turn lane.

**Interested Parties:**

**Paul Atkins**, 1638 East 17<sup>th</sup> Place, stated he is representing owner of the following properties: 1531 South Troost, 1603 East 16<sup>th</sup> Street. Mr. Atkins stated that during the PUD hearings for the Stillwater National Bank, it was determined that the City does not have access or variances for a left-hand turn light for north, south, east or west. He indicated that the issue was discussed in detail and that was the conclusion. He indicated that Dr. Roughing would be in support of this application in contingent if the on Troost being a hammerhead or some type of cul-de-sac. He commented that if the blue house was purchased and torn down this would be an encouragement for other businesses along 15<sup>th</sup> Street. He concluded by stating that as a resident of Swan Lake, he himself, is in favor of this application.

**Comments and Questions:**

Mr. Bolzle asked Mr. Atkins if his protest of the blue house previously were traffic related or parking related? Mr. Atkins indicated that his concerns were both traffic and parking related.

In response to Mr. Atkins, Mr. Bolzle stated he was not aware that traffic issues came up during the previous hearings related to the blue house. Mr. Atkins stated parking was the only issue that was discussed in previous hearings.

Mr. Bolzle asked Mr. Atkins if he was aware if St. Louis Bread was attempting to acquire the subject lot at the time of protest? Mr. Atkins answered negatively.

**Interested Parties:**

**Rob Shofner**, 1521 South Troost, stated that Stillwater National Bank is his neighbor on two sides of his property. He indicated that he is in support of this application. He stated he is also in support of hammer-heading Troost, however, he is aware that it is not a condition of the approval. He commented that St. Louis Bread and Stillwater National Bank are both working with the neighbors on this project.

**Beth Persack**, 1531 South Troost, expressed concerns with parking and traffic.

**Bruce Schultz**, 1915 South Xanthus, stated he is a property owner along with Jerry Bruce at 1602 East 15<sup>th</sup> Street. Mr. Schultz indicated he is in support of this application. He commented that the subject proposal will be an enhancement to the Cherry Street area. Mr. Schultz stated it appears that regarding the blue building that has been mentioned, it would be difficult for a business to go into the property because of the parking problems.

**Applicant's Rebuttal:**

Mr. Johnsen offered to follow-up on Mr. Bolzle's question regarding the blue house, whether it was known at the time the neighborhood was protesting. Mr. Johnsen commented that the new plans for the blue house were not known at the previous hearing regarding that property. He explained that he found out three days ago that the blue house was up for sale. He indicated that he has a verbal agreement, but nothing in writing.

Mr. Johnsen stated he submitted in writing some proposed development conditions and if the Board grants the variance, the Board can impose conditions on the granting of the variance.

Mr. Johnsen stated that in regard to closing Troost Street, this issue is somewhat outside the scope of the hearing. He indicated that St. Louis Bread intends to cooperate with those efforts if they are forthcoming.

Case No. 17928 (continued)

Mr. Johnsen reiterated that with the use of the bank's parking lot he can have a 3600 SF restaurant. If he is able to acquire the blue house, there will be 11 additional parking spaces, and he could expand the restaurant use to 4200 SF. Mr. Johnsen concluded by requesting the Board to approve the request, subject to the use conditions submitted.

**Comments and Questions:**

Mr. Stump advised the Board that they would not want to approve this application per site plan because of the southern half of the Stillwater National Bank property needing to have a 25' green space on the east end and the 5' strip of landscape on the south side. He commented that with this reduction the applicant will still comply with the required 18 parking spaces.

Mr. Johnsen indicated that he has not sought any variance on the landscaping and he will comply with the ordinance. He suggested the Board approve the application subject to site plan and compliance with the appropriate setbacks.

Mr. Stump asked Mr. Johnsen if he was committing to paving the lot; Mr. Johnsen responded affirmatively.

Mr. Johnsen stated he will meet the landscaping requirements and still meet the required parking.

In response to Mr. White, Mr. Stump stated that there was a request for the off-street parking requirement and parking space number 6 could be part of the conditions that would grant that variance. For example: A condition that he is limited to 3600 SF under these conditions or 4200 SF if he provides the additional parking spaces.

Mr. Bolzle stated the Board needs to explain to him why they're favorable to this application and unfavorable to the previous variance of four parking spaces for the little blue house?

In response to Mr. Bolzle, Ms. Turnbo stated the blue house had very little parking and no agreement with the bank for additional parking.

Mr. Bolzle reminded the Board that the applicant has an agreement with the bank to use 18 parking spaces during the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 8:00 p.m. There is no requirement on the banks part to allow the applicant to use any of the balance of the lot. The agreement could be voided at any time. He stated the applicant has 20 parking spaces legally, which conform to the requirements of the Code and the balance of the spaces are not theirs to use freely as part of this project. Less than 40% of the time the bakery can legally use the additional spaces located on the bank's lot.

Case No. 17928 (continued)

Mr. White stated he was under the impression that the balance of over and above the 18 parking spaces were available to the applicant for the off hours.

Mr. Johnsen stated the difference between this application and the blue house, is that they did not have effective parking. The layout that the blue house submitted would not work for parking. He explained that the difference between his application and the blue house application, is that the bank has given him permission to use the subject property during banking hours. He indicated that the subject property is not needed by the bank to meet their parking requirement and it was not part of their PUD.

Mr. Bolzle asked Mr. Johnsen if the subject lot is required to be retained by the Bank Mr. Johnsen answered negatively.

Mr. Johnsen stated his client will be paving the lot and meeting the ordinance requirements. He indicated he will have a ten-year lease with the bank. He stated that the off business hours are significant because that time of day is when the neighborhood is impacted, usually associated with nightclub activity. The fact that his client has the parking available during their business hours, 6:30 a.m. to 8:00 p.m., it meets Code. He indicated that there will be a probability that there will be available spaces that far exceeds Code.

Mr. Bolzle stated he has nothing against St. Louis Bread, but the Board has been diligent in this neighborhood, as well as the neighborhood abutting 21<sup>st</sup> and Utica regarding restaurant use and parking issues. He commented that he has trouble understanding how this differs from other parking variances that the Board has turned down. If the applicant were to have additional parking and come close, plus have the ability to have some spaces sometime, would be a lot closer to the spirit of what we try to accomplish in a neighborhood.

Discussion ensued amongst the Board members regarding previous cases that have precedents similar to Case No. 17928.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (Dunham, Turnbo, White, "aye"; Bolzle "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** to permit required parking to be located on a lot other than the lot containing the principal use. **SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING, GENERAL**; subject to the principal use being a restaurant and the business hours shall be limited to 6:30 a.m. to 8:00 p.m., no drive-thru window shall be permitted, no bar service or live entertainment shall be permitted, not less than 18 off-street parking spaces located within a tract or tracts adjoining the South boundary of the subject property shall be lawfully accessible for the use of the subject property during the hours of 7 a.m. to 9a.m. and 5 p.m. to 8 p.m., and the floor area of the restaurant shall be limited to 3,600 sq. ft., however, if an additional eleven off site off-street

Case No. 17928 (continued)

parking spaces located within 100 feet of the subject property become lawfully accessible for use of the subject property, the floor area of the restaurant may be expanded to 4,200 sq. ft. submitted by the applicant; subject to the a satisfactory site plan being submitted; finding that the requirements for Sec. 1607.C. have been met, on the following described property:

Legal Description: E. 100', Lots 1-3, Block 3, Orcutt Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17929**

**Action Requested:**

Variance to allow a structure in the planned right-of-way 44' from centerline. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and a Variance of the required setback from centerline of abutting street from 110' to 103.5'. **SECTION 903. BULK AND AREA REQUIREMENTS IN INDUSTRIAL DISTRICTS**, located 4201 South Memorial.

**Presentation:**

The applicant, **John Stava**, 3052 East 83<sup>rd</sup> Street, submitted a site plan (Exhibit G-1) and stated he is a building contractor. He informed the Board that he would like to withdraw the Variance to allow a structure in the planned right-of-way 44' from centerline. He indicated that he would focus on the second variance requested, which is the required setback from the centerline of abutting street from 110' to 103.5'. The subject property is the former location of the Lexus automobile dealership, which has relocated to 4215 South Memorial. The building is currently vacant and is being remodeled for a Land Rover dealership.

Mr. Stava stated that there are two elements that are significant to the subject property. One is what is known as the "landmark", which is a concrete masonry structure approximately 9' wide and 35' tall. Next to the landmark is a sloped canopy, which is constructed out of tubular steel and a standing-seam metal roof. These two elements are key elements to the design of the Land Rover dealership. The design was presented to the owners by the franchise. These designs are requirements that have to be incorporated into the building.

Mr. Stava indicated that the building curves at the setback according to the survey. The landmark extends 6 ½' forward of the setback or approximately 103 ½' back from the centerline of the street. He explained that the right-of-way is 120' and half of that is 60' and 50' additional for the setback.

Mr. Stava explained that he is constrained by two different things associated with this proposal. One is that he is constrained by the requirements of the Land Rover franchise. Secondly he is constrained by the condition of the existing structure, which

Case No. 17929 (continued)

is shown in the photographs (Exhibit G-2). The existing structure has a canopy overhang of approximately 5' and the only logical place to erect this structure is inline with the existing canopy. He explained that it is because of these two constraints that he is requesting the variance to place the landmark 6 ½' in front of the setback and since it is being placed there to incorporate the space directly behind it as part of the structure. In addition, the new canopy, made of tubular steel, will align itself with the landmark concrete masonry unit.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the required setback from centerline of abutting street from 110' to 103.5'. **SECTION 903. BULK AND AREA REQUIREMENTS IN INDUSTRIAL DISTRICTS**; per plan submitted; finding that the existing canopy encroaches and this will not be an additional detriment to the public good; **AND WITHDRAW** the **Variance** to allow a structure in the planned right-of-way 44' from centerline. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** per applicant's request, on the following described property:

Legal Description: A tract of land that is part of the S 233', W 338', NW/4, NW/4, Sec. 25, T-19-N, R-13-E, IBM, Tulsa County, Oklahoma, according to the US Government survey thereof, said tract of land being described as follows, to-wit: Starting at the SW/c, NW/4, NW/4, said Sec. 25; thence due N along the Wly line for 3.40' to the POB; thence continuing due N along the Wly line for 229.60'; thence S 89°58'32" E and parallel with the Sly line of the NW/4, NW/4, 338.00'; thence due S and parallel with Wly line of, for 233.00' to a point on the Sly line of the NW/4, NW/4, Sec. 25; thence N 89°58'32" W along said Sly line for 103.00'; thence N 0°01'28" E for 6.50'; thence N 89°58'32" W for 50.80'; thence N 0°01'28" E for 4.50'; thence N 89°52'32" W for 75.00'; thence S 76°44'41" W for 33.09'; thence N 89°58'32" W for 77.00' to the POB of said tract of land, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17930**

**Action Requested:**

Variance of required lot width from 60' to 50'; a Variance of lot area from 6900 SF to 6100 SF and a Variance of required side yard from 15' to 10.1' and from 20' to 12.4' on a corner lot to permit a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 1622 East 35<sup>th</sup> Street.



**Comments and Questions:**

Mr. White stated he did some checking on the history of the subject area and learned that the subdivision was found in 1925. The lot splits apparently were started approximately in 1941 and some of the lots were still vacant. The houses were being built in 1949 to 1955 time frame.

**Presentation:**

The applicant, **John Miggins**, 1632 East 35<sup>th</sup> Street, submitted a site plan (Exhibit H-1) and stated he owns three lots. He explained that when he purchased his property he actually had a lot and half, 183' deep. He indicated that in 1994 he purchased his neighbor's property (back half), which makes a side entrance of 110' deep off of Troost. He stated he purchased property fronting on Trenton with the idea of attaching 30' from the Trenton property onto the other two parcels and making a full lot. He explained that when he purchased the lot in 1994, it was a non-conforming lot and it was attached to the subject property. Since this is a full lot and there is a precedent for the same size lot on the other corner, 35<sup>th</sup> and Trenton, it is a logical development and creates an even dimension to the neighborhood.

Mr. Miggins described the area as an older neighborhood that have very few lots, but would benefit by having some new development.

**Comments and Questions:**

Mr. White asked the applicant if he is ultimately seeking to have a lot that is 50' x 122'? Mr. Miggins answered affirmatively.

Mr. Miggins explained that his intention is to carry the line forward from the south so that all of the lots south of the subject lot will be consistent with 140' on each side.

**Interested Parties:**

**Nancy Apgar**, 3914 South Norfolk, stated she is representing the Brookside Neighborhood Association. She further stated she has no objections to this application.

**David Hoover**, 3331 South Troost, stated he objects to this application. He explained that there is not a vacant lot, but rather taking several back yards and combining them to create a small lot. He expressed concerns with wedging a house on the proposed lot.

**Comments and Questions:**

**Mr. Bolzle** asked staff if the vacant lot that is being created meets the RS-3 requirements? Mr. Beach answered affirmatively.

**Mr. Stump** stated the lot that fronts on 35<sup>th</sup> Street will not meet the RS-3 requirements, however, that is not before the Board today.

Case No. 17930 (continued)

**Applicant's Rebuttal:**

**Mr. Miggins** stated the created lot will be a standard lot and it will meet the 20' back yard requirement.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of required lot width from 60' to 50'; a **Variance** of lot area from 6900 SF to 6100 SF and a **Variance** of required side yard from 15' to 10.1' and from 20' to 12.4' on a corner lot to permit a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**; per plan submitted; finding that the variances requested are consistent with other lots in the subject area; on the following described property:

Legal Description: E. 50', Lot 1, Hanover Terrace, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 17931**

**Action Requested:**

Special Exception of 110% setback from an adjoining residential lot line to allow a 70' monopole tower, located 1200 West Pine Street.

**Comments and Questions:**

Mr. Beach explained to the Board that Case No. 17931 is improperly advertised and will need to be continued to February 10, 1998.

**Presentation:**

The applicant, **Jon Brightmire**, 320 South Boston, present.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 17931 to February 10, 1998, at 1:00 p.m.

**Case No. 17933**

**Action Requested:**

Variance of the required 10' setback from an abutting R district to 6'. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** and a Variance of the required 100' setback from the centerline of Apache to 50'. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**, located 1101 East Apache.

**Presentation:**

The applicant, **Alvin McCreary**, no address given, stated the subject property is in an area that is not a high growth area. The existing church is closer to the street than what he is asking for with this addition. The area in the back will still have enough space to take care of diverting the water off of the property and onto the streets. He commented that it is his opinion that with the existing building being in front, if he could have his 50' setback, it will still allow him to meet the landscaping requirements in the front.

**Comments and Questions:**

Mr. Beach reminded the Board that they have seen this site several times before. The Board has granted several types of relief on the subject site and after a final review by the Zoning Officer for a building permit, these were the two items remaining that needed to be cleared up before the permit could be granted.

**Interested Parties:**

**Johnny Forkham**, 1807 North Main, stated that the property located on Apache and Norfolk, Lot 1, 2 and 3, belongs to him. He explained that he allows the church to park on the subject property. He wanted to know how the proposed application will affect him.

After a lengthy discussion it was determined that the variances had nothing to do with the interested parties' property.

**Applicant's Rebuttal:**

Mr. White asked the applicant if there are other lots available besides the two lots leased for parking? Mr. McCreary stated that there are lots behind the subject property, which was submitted to Board at the previous hearing. He explained that he has a letter from Mr. Forkham stating that the property will be used for parking, which was submitted to INCOG. The only lots the church does not own are the two lots in the front. He confirmed that the church owns the three lots in the back and the three lots it is built on.

Mr. Dunham reminded Mr. McCreary that should Mr. Forkham decided to sell the leased property, then the church will be out of compliance with the approved site plan.

In response, Mr. McCreary stated he understands the situation and there are other lots available in the area.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **APPROVE** a **Variance** of the required 10' setback from an abutting R district to 6'. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** and a **Variance** of the required 100' setback from the centerline of Apache to 50'. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**; per previously approved site plan; finding that the requirements of Section 1607.C have been met, on the following described property:

Legal Description: Lots 16-18, Block 1, Asheton Heights Addition AND Lots 1-3, Block 3, Warehousing Addition AND Lot 1 & 2, Block 1, Banfield Addition, City of Tulsa, Tulsa County, Oklahoma.

**OTHER BUSINESS**

**Action Requested:**

Discuss and consider revising the Zoning Code to be user friendly for the laymen.

**Discussion:**

Ms. Turnbo stated this issue was her idea, because she had dealt with the Zoning book for over 15 years. She explained that there are no longer any Planning Chairs to represent the districts. She suggested that a committee be formed to review this issue and decide how it can be accomplished.

Ms. Turnbo stated that she receives calls frequently from people who are not able to find the information they need. She explained that if you want to know about RM-2 you have to look in five different sections. She requested staff to come back with a recommendation on how this can be accomplished.

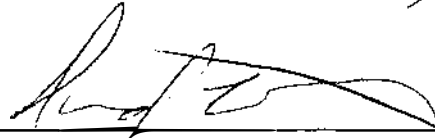
Mr. Stump informed the Board that as far as revising the Code to make it more reader friendly, this is the time to submit it to the work program for the next fiscal year, which starts July 1, 1998.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to submit as a recommendation to the Planning Commission, a study and revision of the Zoning Code book to be user friendly for the layman in the next Fiscal Year 1999 budget.

There being no further business, the meeting was adjourned at 3:20 p.m.

Date approved: MARCH 29, 1998

  
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Chair