

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 748
Tuesday, April 28, 1998, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT

Cooper
Dunham
White, Chair

MEMBERS ABSENT

Bolzle
Turnbo

STAFF PRESENT

Dunlap (in at 3pm)
Stump (out at 3 pm)
Arnold

OTHERS PRESENT

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

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday, April 24, 1998, at 10:26 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. 17895

Action Requested:

Minor Special Exception to amend site plan, located on the W side of Peoria between E. 17th St. & E. 17th Pl. & S. Owasso.

Presentation:

The applicant, **Charles E. Norman**, submitted a site plan (Exhibit A-1) and stated that on January 13, 1998 the Board approved a Special Exception and two Variances to permit the renovation of the B'nai Emunah Synagogue at E. 17th St. and E. Peoria and the addition of a new educational wing. Since that time, the plans have been modified and reduced. Mr. Norman has submitted a letter which consists of each of the changes and a copy of the site plan as approved in January and as proposed for amendment today. The only change is the building has been moved 10' to the SW/c but that movement did not require and the Board did not grant any exception or variance, it is still within the setback from 17th Place. Mr. Norman stated that there were a number of interested parties at the previous hearing, he has provided copies of the amended site plans to all of the owners of property on the streets facing the synagogue and to the leaders of the neighborhood association. Mr. Norman is asking

Case No. 17895 (continued)

the Board to approve the amended site plan, which does not change but reduces the exceptions and variances that were granted in January.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper Dunham, White, "aye"; no "nays", no "abstentions"; Dunham, Turnbo "absent") to **APPROVE** a Minor Special Exception to amend a previously approved site plan, per plan submitted on the following described property:

Lots 1 through 24, Block 12, Morningside Addition to the City of Tulsa, Tulsa County, Oklahoma.

Case No. 17982

Action Requested:

Special Exception to waive the screening requirement along the east property line.
SECTION 1217.C.1. AUTOMOTIVE AND ALLIED ACTIVITIES; Use Conditions
located 1269 S. Memorial Dr.

Presentation:

The applicant, **Carl White**, 1269 S. Memorial Drive, stated that the same variances and special exception were approved in 1994 and have now expired. He is now before the Board seeking approval again. The Board at their March 24, 1998 meeting acted on those requests. The only remaining request is to waive the screening requirement on the east side of the property.

Interested Parties:

None.

Comments and Questions:

Mr. White asked if this case was continued to consider the waiver of the screening requirement only. Staff answered yes.

Mr. Stump stated that the east side is heavily wooded and has a significant distance between housing on 83rd Avenue.

Mr. Dunham asked the applicant if he was going to be storing any inoperable vehicles on the property. The applicant answered no.

Case No. 17892 (continued)

Mr. Dunham asked the applicant to state the days and hours of operation. Mr. White replied 9 a.m. to 7 or 8 p.m., Monday through Saturday. Mr. Dunham asked Mr. White if he would have a problem with a restriction against storing inoperable vehicles on the property. Mr. White answered no.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** a Special Exception to waive the screening requirement along the east property line. **SECTION 1217.C.1. AUTOMOTIVE AND ALLIED ACTIVITIES; Use Conditions** subject to there being no inoperable vehicles stored on the lot for auto repair and the hours of operation being 8 a.m. to 8 p.m., Monday through Saturday and that any lights on the car lot be hooded and directed away from the abutting property, per plan submitted on the following described property:

Lot 6, Block 3 Forest Acres.

Case No. 18003

Action Requested:

Special Exception to permit church uses and accessory church uses (bus barn) in an RM-1 and RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** located 2000 Block of S. 131st E. Ave.

Presentation:

The applicant, **Frank Rhodes**, stated that he represents Eastland Baptist Church. Mr. Rhodes stated that some time back the church purchased a lot near the church to park the church's buses. The church has three route buses used to pick up children and bring them to church and to take them to camp. Mr. Rhodes mentioned that it has been hard to find a place to store them where they could have 24-hour access to them. All of the bus drivers, maintenance men, etc. are volunteers of the church and it would be more convenient to park the buses on the lot next to the church. They are hoping to build a building to store and work on the buses and keep them out of the weather.

Interested Parties:

None.

Comments and Questions:

Mr. Dunham asked Mr. Rhodes if there was any other access to the facility other than 131st E. Avenue. Mr. Rhodes replied no, access is difficult.

Mr. White made the comment that in regard to traffic on 131st E. Ave., the street has 36' of paving instead of 26' of paving, 10' wider than normal. Mr. White stated that it would be easier for the bus to make the turn.

Mr. Dunham asked the applicant if the building was to be 50' x 50'. The applicant stated that 50'x50' was an estimate of the size, they now believe that the building will actually be smaller than that.

Mr. Cooper asked if there would be three buses stored in the building. Mr. Rhodes answered yes (Mr. Rhodes later said it would be two); they have three school buses or route buses used to bring kids to the church. They have one road bus used for long trips, such as taking kids to camp in Tennessee. Mr. Cooper asked the applicant to visualize long term, what the maximum number of buses used on the site would be. The applicant answered that they have had three bus routes for about 10 years. If they have a lot of kids wanting to use the bus routes, they will want to add buses to it. The facility that they want now is only big enough for 4 buses, which is what they have now.

Mr. Dunham asked if the buses were going to be stored inside. Mr. White answered that he wanted the building big enough for two buses. One bay to put the road bus in to keep it in good shape and another bay to put one of the route buses in to work on it. Ideally, the church wants a barn big enough for two buses and enough space on the lot to park three buses (a total of five).

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Special Exception to permit church uses and accessory church uses (bus barn) in an RM-1 and RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** subject to there being no more than 5 buses and per plan submitted on the following described property:

Lot 1, Block 1, Eastland Baptist Church AND Lot 7, Block 1, Plaza Hills Center, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; less and except the following tract: Beginning at the SW/c of said Lot 7, thence due N and along the W line of Lot 7 a distance of 115.80', thence S 89°59'20" E a distance of 15.00', thence due N a distance of 97.87', thence S 89°59'20" E a distance of 132.28' to a point on the E line of said Lot 7, thence S a distance of 213.67' to the SE/c of said Lot 7, thence N 89°59'20" W a distance of 147.28' to the point of beginning

NEW APPLICATIONS

Case No. 18013

Action Requested:

Special Exception to allow light manufacturing in a CBD zoned district (computer assembly) **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 25** located NE/c E. Brady St. & N. Detroit.

Presentation:

The applicant, **Stephen M. Kennedy**, 2722 E. 45th Pl., submitted a site plan and a packet to the Board (Exhibits B-1 and B-2) and stated that he represents Bed Check. Bed Check is asking for a Special Exception in a CBD for light manufacturing. Bed Check is the maker of monitoring devices for fall safety prevention. The devices are manufactured at other locations and will be assembled at the Tulsa location. The environment that the parts will be assembled in will be high tech. The area will also be for research and development. This is a company that the corporate headquarters are in Tulsa; their equipment is marketed and distributed internationally. Bed Check's proposed facility is across the street from Spaghetti Warehouse. Approximately 4,000 SF of the building would be utilized for offices and 7,000 SF for assembly.

Interested Parties:

None.

Comments and Questions:

Mr. White asked Mr. Stump about the reference in the Staff Comments to Chapter 10 in the Zoning Code pertaining to landscaping requirements.

Mr. Stump asked the applicant if he is going to use the existing building and is the lot paved. The applicant answered yes. Mr. Stump stated that he would then be exempt.

Mr. White mentioned to the applicant that he should coordinate his plans with the Tulsa Development Authority and the Greenwood Chamber of Commerce. Mr. Kennedy stated that he has talked with the TDA but has not been able to talk with the Greenwood Chamber of Commerce.

Interested Party:

Jim Norton, President of Downtown Tulsa Unlimited, 320 S. Boston, Ste. 101. Mr. Norton stated that they have met with representatives of Bed Check and DTU is satisfied that they should be granted the Special Exception and understand that this is simply the assembly of components made elsewhere, it doesn't involve any manufacturing. Mr. Norton stated that it is DTU's understanding that the company would have no noise or smoke, fumes or emissions of any type and see fit that the Board would enter that as a condition. Mr. Norton mentioned that DTU is quite excited about this, it will bring some employees into the downtown area, it will recycle an older

Case No. 18013 (continued)

brick building in the Brady area and they would urge the Board's approval and state for the record that they appreciate members of the company meeting with them in the initial stages.

Board Action:

On **MOTION** of **COOPER**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Special Exception to allow light manufacturing in a CBD zoned district (computer assembly) **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 25** subject to there being no emissions emitted into the surrounding area and there being no outside storage on the following described property:

Lot 4, Block 25, Original Town and Lot 5, and the S ½ of Lots 1 and 6, Block 25, Original Town, all in Tulsa County, Oklahoma.

Case No. 18014

Action Requested:

Variance of the setback from centerline of S. Union Ave. from 50' to 36' for a ground sign. **SECTION 1221.C.6. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs** located at 4724 S. Union.

Presentation:

The applicant, **Oklahoma Neon, Inc.**, represented by **Terry Howard**, 6550 E. Independence, submitted a site plan (Exhibit C-1) and stated that they are requesting a variance of the setback to allow the existing sign, it was placed in error too close to the street. If the sign is setback 50' it puts it back behind an existing bush in a neighbor's yard. Mr. Howard stated that the street is fairly narrow there and the sign is sitting back a significant distance from the road as it exists. All the other signs on the street are out a little further than this sign.

Interested Parties:

None.

Comments and Questions:

Mr. White asked the applicant when the sign was placed there in error. The applicant responded one year ago.

Mr. White asked Mr. Stump to elaborate on Staff's Comments. Mr. Stump stated that this is inside the planned right-of-way even though there is currently no right-of-way acquired at this location. Staff could not see, from the site plan submitted, why they could not set the sign back the required 50'. Mr. Stump mentioned that it appears that

Case No. 18014 (continued)

there is room on site for that and that they could see no justification for it. Mr. Howard stated that the neighbor on one side has a long fence that sticks out and the neighbor on the other side has a bush on their property and if they move the sign back to 50' it puts it even with the bush.

Mr. White stated that there are other signs along both sides of the road, particularly that side, that are out closer than the 50' setback and they have been there for some time.

Mr. White asked the applicant if the Board approved his request with a removal contract, would that be acceptable to him. The applicant replied yes.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** a Variance of the setback from centerline of S. Union from 50' to 36' for a ground sign. **SECTION 1221.C.6. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs** subject to a removal contract and per plan submitted finding the hardship being the other signs in the area and the existing conditions on either side of the property on the following described property:

S/2, Lot 4, Block 1, Greenfield Acres.

Case No. 18015

Action Requested:

Special Exception to operate a flea market in a CS zoned district **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 15** located 1823 & 1831 N. Lewis Ave. E.

Presentation:

The applicant, **Laura Beesley**, 1910 N. Lewis Pl., submitted photos and a site plan (Exhibits D-1 and D-2) and stated that they are requesting to open a flea market at 1823-1831 N. Lewis Ave., which consists of three lots. Mr. Beesley stated that previous use was a gas station. Mr. Beesley mentioned that they want to use the property for a flea market and to put a canopy for outside sales and they would have 13 parking spaces.

Comments and Questions:

Mr. White asked the applicant how long this property has been used as a flea market. The applicant replied several years, but has never been properly permitted.

Mr. Dunham asked what the days and hours of operation are. Mr. Beesley answered Monday through Saturday, 9 a.m. to 5 p.m.

Mr. Ballentine stated that the flea market has been operating illegally as a flea market. The applicants are leasing the property and are willing to abide by any restrictions that the Board should decide to place on the property. Mr. Ballentine stated that it is probably not out of step with the rest of the businesses in the area. Mr. Ballentine mentioned that there are some limitations on the outside sale of merchandise and the appearance of it there as well as the screening requirement with the residential area directly behind would need to be addressed.

Mr. Dunham asked if the operators were new or old. Mr. Ballentine replied that they are new operators.

Mr. Cooper asked if the photos were from the current owner. Mr. Ballentine replied yes.

Mr. Stump stated that outside display or sale of merchandise is not permitted on this lot.

Mr. Dunham mentioned that his problem with the request was the overall appearance and if the Board limited it to no outside storage, how could they operate.

Mr. Stump asked Code Enforcement if they consider under a canopy as outside display. Mr. Ballentine answered yes, plus the restriction of having the 300' for any outside display. Mr. Dunham mentioned that they are not advertised for that.

Mr. White informed the applicants that they have a problem because they have an open display and they have not advertised relief from the 300' requirement from a residential area for the open display of the products. Mr. White stated that applies to while you are open and closed.

Mr. Beesley stated to the Board that they are in the process of cleaning the property up more than what is shown in the photos. They are still in the process of making the 13 parking spaces needed.

Mr. Dunham asked Mr. Stump if the applicant received a variance could they operate an outside storage. Mr. Stump answered that they could if they received a variance on the prohibition on the outside storage.

Mr. Dunham asked if the Board should continue the case to give the applicants time to readvertise. Mr. Stump answered if the Board feels the use is generally acceptable.

Case No. 18015 (continued)

Mr. Dunham mentioned that he did not have a problem with the use but did have a problem with the screening.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18015 to the Board meeting of May 26, 1998 for proper advertisement.

A lengthy discussion between the Board and the applicant regarding additional fees ensued.

Case No. 18016

Action Requested:

Special Exception to permit a Use Unit 12a use in a CH zoned district on a lot that is within 150' of an R zoned district. **SECTION 701. TABLE 1. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a** and a Variance of the required 500' setback from an R district to 270' to the southeast and from 500' to 282' to the north to permit a sexually oriented business. **SECTION 705.B.5 LOCATION OF SEXUALLY ORIENTED BUSINESSES, Prohibition – Use Unit 12a** located 7102 E. 11th St.

Presentation:

The applicant, **C. Elaine McCance**, submitted a site plan (Exhibit E-4) and photos (Exhibit E-1) and stated that she represents the building in question, which houses The Cabaret. The building is in the Northwest portion of Block 4 and faces 11th St. On the Southeast side of the building there is an R district. Ms. McCance submitted photos of all the businesses along 11th St. There are commercial and industrial businesses surrounding them. She also presented a petition of support from four business owners in the immediate area (Exhibit E-2). There are commercial and industrial businesses surrounding them. Ms. McCance's building faces 11th St. and directly east of them is a QuikTrip. From their building to QuikTrip there is a privacy fence so that no view or access to the property is available.

Comments and Questions:

Mr. Cooper asked the applicant what the hardship is that she is requesting. Ms. McCance stated that they need the extension of the 500' to a residential zoned area from their property. The section of the building that they are using is the northwest portion of the building, not the entire building, and from 11th St. running east there is a privacy fence so that there is no view or accessibility to other property. A privacy fence surrounds the apartments behind them as well.

Mr. White asked Ms. McCance what the days and hours of operation are. Ms. McCance replied Monday through Saturday 12 p.m. to 2 a.m. and on Sunday 5 p.m. to 2 a.m.

Mr. Cooper asked the applicant to clarify what the hardship is. Ms. McCance stated that the screening is already in place and they have put in additional screening. Between Ms. McCance's property and the apartment complex there is an empty lot.

Interested Parties:

Mr. White mentioned that the Board is in receipt of a letter from QuikTrip Corporation in opposition to the application (Exhibit E-3).

Steve Schuller, 320 S. Boston, Suite 1024, stated that he is the attorney for the QuikTrip Corporation. Mr. Schuller mentioned that QuikTrip operates a store to the east of the applicant's property. QuikTrip is opposed to this application and opposes the location of any sexually oriented business in such close proximity to any of its stores. QuikTrip believes that this kind of business would be injurious to the neighborhood and would cause substantial detriment to the public good and welfare. Families shop at this QuikTrip and QuikTrip does not even sell the so-called adult magazines in its stores. It feels very strongly about catering to families and providing a pleasant shopping experience. QuikTrip is concerned that families would avoid QuikTrip and perhaps some of the neighboring businesses when they are confronted with a sexually oriented business and the customers it would attract to that area. Even with a screening fence in place, the property would dominate the area because it sits on top of a rise at the top of a hill and would be very visible. This sort of business would be inconsistent with and would be harmful to the residential neighborhoods in the vicinity. The applicant has failed to demonstrate the requisite hardship for the variance she needs. Mr. Schuller stated that there is nothing unique about the property. The subject property is less than 500' from the RS-3 zoned single family residential neighborhood and the building in which the sexually oriented business is to be conducted may be less than 500' from the church. Mr. Schuller asked the Board to deny the application.

Mr. Harley Sarten 6943 E. 10th St. stated that he has a residence and a business within the immediate area of the club. Mr. Sarten mentioned that he did not have too much to add to what Mr. Schuller said. He presented a petition of opposition from concerned individuals in the area, which he would like to submit to the Board (Exhibit E-3).

Mr. White asked Mr. Sarten how many individual businesses signed the petition. Mr. Sarten answered 9.

Mr. White asked if there was anyone present who did not wish to speak but wished his or her opposition to be noted. There were three:

Judy Sarten	6943 E. 10 th St.
Sue Vasicik	7113 E. 10 th St.
Robert Bishop	6741 E. 10 th St.

Betty Bishop, 6741 E. 10th, stated that no one has mentioned the noise and the traffic involved. Ms. Bishop mentioned that there was a place on Sheridan and 10th St. called Checkers, there was quite a bit of noise from the club and there was a lot of traffic from the club when it closed in the evenings.

Rhetta Sterling, 7128 E. 10th, stated that when she received the notice she did not know what a sexually oriented business was and she was told that it was something like a strip joint. Ms. Sterling stated that 11th St. has just recently been cleaned up from other businesses on the street. Ms. Sterling said that this is an old, nice neighborhood and many families in the neighborhood have children and even grandchildren. Ms. Sterling stated that there may be some effect on the nearby park where the children play. Ms. Sterling asked the Board not to do this to the neighborhood or the City.

John Wolfe, 7112 E. 10th, stated that he wants to voice his strong opposition to this business being installed in the area. Mr. Wolfe believes it will damage property values in the area.

Candy Parnell, Code Enforcement, stated that she had a couple of conversations with Don Chandler who owns the properties behind the QuikTrip to the south and east, he had to be out of town today, but he was opposed to this and he dropped off a letter to INCOG.

Applicant's Rebuttal:

Ms. McCance stated that the residences are down one to two blocks. 11th St. has been known to be a busy street for many years and she does not believe the club would bring any more traffic into the area. Ms. McCance stated that as far as a "strip joint" there will be no nudity, the women will be wearing what is called a G-string which will cover vital areas and on the top portion, they will be covered as well, so that there are no private areas being exposed. As far as the apartment building that is southeast of them, there is a screening fence and a vacant lot between them. If the 150' variance is not approved for the sexually oriented business, they would like it to be approved for 150' to add a bar to the building. They have leased the building and have brought in furniture and have some expense already put into it in the hopes of being able to open a gentlemen's club.

Comments and Questions:

Mr. Cooper stated that the noise was one of his biggest concerns and asked the applicant how she would prevent the noise from being a problem for the neighbors. Ms. McCance replied that they would follow the rules and regulations on sound. The

building they are located in is actually a large warehouse and they are only going to use the northwest section of the front part of the building, which would give them a half of a building buffer between the parking lot the apartments. She doesn't believe the sound will carry to the residents on the north side of 11th St. on 10th St.

Mr. Stump stated that when they are within 150', rather than being a use by right they are a special exception.

Mr. Dunham asked Mr. Stump about his comments about parking. Mr. Stump replied that it is the applicant's responsibility to lay out a parking lot that will meet the requirements.

Mr. Dunham asked the applicant if she knew that some of her parking spots shown on her plan are not legal parking spaces, they are not the required length. Based on the plan submitted the applicant needs 56 parking spaces. Ms. McCance stated that they had received the requirements for the size on the handicapped parking and other parking spaces and they believe that they have enough parking for this use. Mr. Dunham stated that they will have to have 56 legal parking spaces.

Mr. Cooper asked the applicant about her hours of operation. Could she live with hours that were more restrictive such as closing at 11 p.m.? Ms. McCance stated that she would prefer to be open until 2 a.m. but might be able to handle until midnight. Most businesses of this nature (bars and clubs) are allowed to stay open until 2 in the morning. Mr. Stump cautioned the Board that it is difficult to enforce hours of operation. If there was such a condition imposed and they violated it, it would be hard to enforce. Ms. McCance stated that if it would be more agreeable to the area, they could consider eliminating some daytime hours. The evening hours are the prime hours.

Mr. White asked Code Enforcement what the previous use on this property was and for how long. Ms. Parnell stated that the last time this was opened properly by permit, it was a trucking company. Mr. White asked Ms. Parnell when the property became Players, a bar. Ms. Parnell replied that she was not sure how long ago it operated as Players, but she does not think any permits were issued. Ms. Parnell doesn't believe it was open any longer than 2-2½ months then they went out of business.

Mr. Cooper stated that he has a problem with the Variance because he does not feel a hardship was presented, as for the Special Exception, he feels okay with a bar. Mr. Cooper believes that this will truly be detrimental to the neighborhood.

Mr. White stated that the other bars on 11th St. have a greater separation from the residential area than this.

Case No. 18016 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **DENY** Special Exception to permit a Use Unit 12a use in a CH zoned district on a lot that is within 150' of an R zoned district and to **DENY** a variances of the required 500' setback from an R district for a sexually oriented business. on the following described property:

Lot 4, Block 1, Sheridan Industrial District.

Case No. 18017

Action Requested:

Variance of the off-street parking requirements of the Zoning Code from 21 spaces to 6 spaces **SECTION 1217.D. AUTOMOTIVE AND ALLIED ACTIVITIES, Off-Street Parking and Loading Requirements** located at 7641 E. 46th Pl. S.

Presentation:

The applicant, **Charles E. Norman**, submitted a site plan (Exhibit F-2) and photos (Exhibit F-2) and stated that he represents Mr. Red Freeze in this application. Mr. Freeze currently operates a used car sales lot at the northwest corner of Memorial and the Broken Arrow Expressway. Mr. Freeze has contracted to purchase the property, for the purpose of locating his office and locating, storing and selling, within the enclosed building, collectible automobiles. Collectible automobiles, defined by Mr. Freeze are automobiles that are generally more than 15 years old and can be up to 50 years or more. Mr. Freeze currently has on his property on South Memorial a 1957 Thunderbird, which he purchased in 1958. The property under consideration is located within an Industrial Light District and all of the uses that he proposes are permitted by right. The only issue here is that this particular structure occupies virtually all of the lot and has within the boundaries only 6 lawful parking spaces. If this use were for the storage of automobiles, under Use Unit 23, the standards of the zoning code, the parking requirements would be met. It is the sale of automobiles that require a higher number of parking spaces. There is no access to the rear of the lot. The building is 78' wide on an 80' wide lot. This use is one that Mr. Norman feels has slipped through the cracks of the zoning code, in that it is very rare that you would have indoor sales of automobiles, particularly those restricted to this classification. The traffic generated by persons interested in collectible automobiles is very low. In fact, sales of the automobiles are also very low. This application is a request to reduce the parking requirements to those required for the warehouse and storage use and the variance of the requirements of the sales use and limited use for collectible vehicles. Mr. Norman stated that he felt the Board would find the structure and design of the building and lot peculiar. This is a unique and different use, the conditions are there to support the variance. It is not the type of use that is frequently found within

the community and Mr. Norman feels that it fits the standards required to grant the relief that is requested.

Interested Parties:

None.

Comments and Questions:

Mr. Dunham asked what the parking requirement is for office and warehouse. Mr. Stump answered that office use is 1 space for 300 SF of building and for warehouse it is 1 space for 5,000 SF of building. Mr. Stump stated that if conducted as proposed, it will not have the typical demand for parking that an automobile dealership would, but he thinks that the key here is to place conditions on the use such that other uses don't come in later that are more traditional auto sales. Mr. Stump mentioned that they could possibly meet the parking requirement with an office/warehouse use. Mr. Norman stated that they definitely do. The building is 10,200 SF and the office area is 1,200 SF, that would required 6 parking spaces and there are 6 lawful parking spaces on the property now. A person could warehouse or store the autos there if they did not offer them for sale.

Mr. Dunham said if they restrict it to this use only, that would not prohibit an office/warehouse from occupying it without appearing before the Board. Mr. Norman stated that you can change the use to any use that meets the parking requirements.

Mr. Stump stated that the restriction to use would only be applicable for this variance. If they did not need this variance, then the restriction would not apply.

Mr. Dunham stated that he is very comfortable with this use in this building with this amount of parking.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Variance of the off-street parking requirements of the Zoning Code from 21 spaces to 6 spaces **SECTION 1217.D. AUTOMOTIVE AND ALLIED ACTIVITIES, Off-Street Parking and Loading Requirements** limited to this proposed use only with the understanding that other office/warehouse that met the parking requirements would also be permitted on the following described property:

Lot 29, Block 1, Industrial Equipment Center 3rd Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18018

Action Requested:

Special Exception to permit a manufactured 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. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** located 3624 S. Jackson.

Presentation:

The applicant, **Robert P. Scroggins**, submitted a site plan (Exhibit G-1) and stated that he wants to put a mobile home on the lot for the purpose of living in it.

Interested Parties:

None.

Comments and Questions:

Mr. White asked the applicant if the smaller mobile home on the lot is one that he is currently living in. The applicant replied that it is 14x70. Mr. White stated that there are two mobile homes on the property, a small one and a larger one. Mr. Scroggins replied that there is a metal building in the back that has been there for years. Mr. White asked if the metal building would be staying there and the applicant answered yes.

Mr. Cooper asked if the Board was willing to eliminate the time limitation and allow it to be permanent. Mr. White answered that in that area it would be acceptable, there are others in the area that have been there for a long time.

Board Action:

On **MOTION** of **COOPER**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Special Exception to permit a manufactured 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. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, finding the hardship to be that there are other mobile homes in the area that have been there for a long period of time, on the following described property:

Lot "B", Block 6, of the amended plat of B.5-8 Garden City, City of Tulsa, County of Tulsa, State of Oklahoma.

Case No. 18019

Action Requested:

Variance of required rear yard from 25' to 17.8' to allow an addition to an existing dwelling unit. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** located 7315 S. College Ave.

Presentation:

The applicant, **Robert Thompson**, 7617 S. Quebec Ave., submitted photos (Exhibit H-1) and a site plan (Exhibit H-2) and stated that they have purchased the residence in question at 7315 S. College Ave. and will be moving there as soon as some extensive remodeling is done. Mr. Thompson is requesting the variance to allow a small hobby shop to the backyard side of the attached garage. There are several other options possible, but those options would entail cutting down some mature oak trees. The addition they would like to build would incorporate the architectural style of the house. Mr. Thompson has spoken with the surrounding neighbors and no one had an opposition to this addition.

Interested Parties:

None.

Board Action:

On **MOTION** of **COOPER**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** variance of required rear yard from 25' to 17.8' to allow an addition to an existing dwelling unit. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** finding the hardship is the house is situated unusually far back on the lot and that by placing this addition on other areas of the lot would entail removing large trees, per plan submitted, on the following described property:

Lot 2, Block 1, Rockwood Hills Manor, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18020

Action Requested:

Variance of required rear yard from 25' to 16' and variance of required front yard from 35' to 28' and variance of required yard abutting a public street from 15' to 9' to permit new construction in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS – Use Unit 6** located NE/c E. 34th St. S. & E. 34th Pl. S.

Presentation:

The applicant, **Carol L. Mersch**, 6244 S. Yorktown Pl., submitted a building plan (Exhibit I-1) and a site plan (Exhibit I-2) and stated that she wants to build a home on a corner lot at 34th & Atlanta Pl. Ms. Mersch stated that she purchased the lot in January of 1997, when it came available because of a lot split of a much larger lot in the area. Ms. Mersch pointed out that this is a well-established midtown Tulsa area with beautiful homes. The original lot was very irregular shaped with an existing home on it. A building contractor bought the lot, demolished the home and divided it into two lots that were very odd in shape. The original lot had many large, mature trees and was roughly 130' in the front and 309' across the back. In the process of a lot split, the lot she purchased was 55' across the front and 145' across the back. The narrow footage across the front has created some difficulties in designing a house. They wanted to build a home that was in keeping with the look and feel of the neighborhood. Ms. Mersch stated that they began in 1997 designing the home and have now been through two architects, a year and a half later and they have spent \$6,000; they are still trying to build a home that will fit within the lot. The two-story home will be roughly 4,800 SF. They want to put an additional bedroom downstairs for her aging parents who cannot climb stairs. There are also mature trees on the lot that they are not wanting to tear down. Ms. Mersch has spoken with several of the immediate neighbors off and on over the last six months and they have no objection to the home.

Interested Parties:

None.

Comments and Questions:

Mr. White asked if the neighbors have seen the most recent plans. Ms. Mersch answered that they were notified of the recent site plans, they have seen previous site plans that are similar and they have received the notice that the Board sent.

Mr. Dunham asked if the relief requested is more than the relief needed; he asked the applicant if she was comfortable with the site plan. Ms. Mersch answered that they are comfortable with the site plan. Mr. Dunham asked the applicant, if the Board were to approve the variances per plan submitted would that be okay. The applicant replied yes.

Mr. White mentioned that the Staff comments make reference to a final site plan, is the plan before the Board now. Ms. Mersch answered that they had a previous site plan and had scheduled a previous appearance with the Board and it has been modified since then. This is essentially the same plan with some modifications to room sizes.

Mr. White asked Mr. Stump if he had any additional comments on this. Mr. Stump answered that the plan in the file is one that has a last revision date of November 25, 1997. Is that the right plan? Ms. Mersch answered yes.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** variance of required rear yard from 25' to 16' and variance of required front yard from 35' to 28' and variance of required yard abutting a public street from 15' to 9' to permit new construction in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS – Use Unit 6**, subject to site plan submitted, finding the hardship to be the configuration of the lot, on the following described property:

A tract of land in Lot 5, Block 5, Oakview Estates, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows: Beg. at NWly/c of said Lot 5, thence SEly along the Wly line, for 130.96', (136.42' as shown on recorded plat of said Oakview Estates) to a point of curve to the left; thence around said curve to the left, having a radius of 23.42', for an arc distance of 30.50'; thence NEly along the Sly line, for 104.25' (previously described as 103.25'); thence Nly, on a line being the Ely line of said tract, for 309.06' to point on the Nly line of said Lot 5; thence SWly along the Nly line, for 278.50' to the POB, LESS AND EXCEPT, Beg. at the NWly/C of said Lot 5; thence SEly along the Wly line, for 75.00'; thence NEly for 178.63' to a point on the line previously described as the Ely line of said tract; thence Nly along said line for 164.00' to a point on the Nly line of said Lot 5; thence SWly along the Nly line, for 278.50' to the POB.

Case No. 18021

Action Requested:

Variance of the minimum lot width for single-family dwellings from 60' to 37½', a Variance of the required lot area from 6,900 SF to 5,200 SF, and a Variance of the required side yard on the north side of the southern lot from 5' to 3½'. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS. Use Unit 6** located 1407-1409 S. Evanston Ave.

Presentation:

The applicant, **Stephen A. Schuller**, 320 S. Boston, Tulsa, OK 74103, submitted a site plan (Exhibit J-1) and stated that he is the attorney for the owners of the property, Tim and Margaret Clark. Mr. Schuller stated that the subject property comprises three platted subdivision lots, each one is only 25' in width. Rosemont Heights is one of the older subdivisions in Tulsa; it was platted when it was more common to subdivide land into 25' wide lots. One house is located on the northern lot and part of the middle lot and has been in place for 40 years. The other house is situated on the southern lot and part of the middle lot and the house was moved onto the property within the last year and was remodeled and refurbished. The applicants now propose to split their property between the two houses and sell them individually. Mr. Schuller stated that

the applicants are faced with several hardships requiring relief from the Zoning Code provisions in order to obtain lot split approval from the Planning Commission. This Board found in Case No. 17506, that these lots are exceptionally narrow and small and are not wide enough to meet the requirements of the Zoning Code which were established long after these lots were platted. This property came before the Board when the applicant's wanted to move the house onto the southern portion of the property and the Board granted the requisite zoning relief to permit them to move the house onto the property, subject to there being two parking spaces in the rear for each house. There was some confusion when that case was presented as to side yard setback, the applicants needed a Variance of the side yard setback along the south boundary and that is what they thought the Board granted. They did not need a Variance on the side yard setback on the north side of the northern house because that house was already in place, not being changed, it was a preexisting, non-conformity. The Board thought it was granting a side yard variance on the north side of the north house. That was misunderstanding that came to light only when the house was then moved onto the southern portion and the neighbor to the south appealed the building permit (Case No. 17777). At that hearing, the Board explained its previous decision that they were granting the 4' variance on the north side of the north house rather than the south side of the south house.

Interested Parties:

None.

Comments and Questions:

Mr. Dunham stated that he believed the problem was always on the south side of the south house. That was the neighbor who was complaining. The Board was never concerned with the north house because it was preexisting.

Mr. Schuller stated that they have compliance on the south side, a preexisting non-conformity on the north side of the north house. In order to split this property now, in the middle of the middle lot, they have a 10' separation between the houses but the way the line falls, it is 3½' from the north side of the southern house. The positioning of these two houses on the property is consistent with a number of other properties in the neighborhood where the houses have the same proximity or closer.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** variance of the minimum lot width for single-family dwellings from 60' to 37½', a variance of the required lot area from 6,900 SF to 5,200 SF, and a variance of the required side yard on the north side of the southern lot from 5' to 3½'. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS. Use Unit 6**, finding the hardship being the size of the lots, on the following described property:

Case No. 18021 (continued)

Lots 43, 44 and 45, Block 7, Rosemont Height, City of Tulsa, Tulsa County,
State of Oklahoma.

Case No. 18022

Action Requested:

Variance to allow two dwelling units on one lot of record. **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6** located 6905 S. Union

Presentation:

The applicant, **Ed E. Rylander**, 3815 E. 69th Pl., submitted a site plan (Exhibit K-1) and stated that he is representing his son, Edward Rylander. Mr. Rylander stated that they have approximately 4 ¾ acres located at 6905 S. Union Ave. and they have a building permit for a primary residence. The primary residence will be approximately 4,000 SF and they are seeking a variance for an existing 30' x 40' concrete building that would be remodeled into a residence for maintenance personnel for the 4 ¾ acres located there.

Comments and Questions:

Mr. White asked Mr. Stump to elaborate on some of the Staff questions. Mr. Stump replied that there is sufficient land area to allow subdividing of the property which would be the normal procedure for accomplishing this rather than putting two dwelling units on one lot of record. Mr. Stump mentioned that Staff had a question as to what the "utility purposes only" label on the existing building was. Staff felt it was an unusual comment and wondered what it meant and wondered if it was going to be used for storage.

Mr. Rylander mentioned that when they got the permit for the primary residence, it was agreed that this would be used just for a utility building. Since then, Mr. Rylander's son has decided that he wants to make it a building for people who would help maintain the property. Mr. Rylander's son intends to have a grassy area in there with a farm pond on the property.

Mr. Cooper asked the applicant to explain the hardship on this property. Mr. Rylander replied that you could only put one residence on one recorded lot, so they need a variance. Mr. Cooper asked the applicant to stress what would make the property unusual that would create a need for a hardship. Mr. Rylander replied that it is necessary for them to have the residence for people to maintain the property.

Mr. Dunham asked the applicant to step to the front and explain the site plan and the access. (Discussion not audible on the tape.)

Case No. 18022 (continued)

Mr. Cooper asked about the ingress and egress to the back lot, if there was a lot split that would restrict access to the back lot.

Mr. White asked Mr. Stump what the problems would be with this property being subdivided. Mr. Stump answered that they may have a problem getting adequate lot width with the existing building being located where it is. The average width of the lot must be 200' but it could be that the rear lot, which would have the new building might have trouble meeting the 200'. They certainly have enough lot area but might be lacking in lot width.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** variance to allow two dwelling units on one lot of record. **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6**, finding the hardship to be the configuration of the lot, subject to per plan submitted, on the following described property:

E/2 S/2 S/2 NW/4 SW/4 SW/4 and the N 231' of the S 396' of the NW/4 SW/4 SW/4 in Sec. 2, T-18-N, R-12-E of the IBM, Tulsa County, State of Oklahoma.

Case No. 18023

Action Requested:

Variance to allow a 900 SF detached accessory garage in an RS-3 district. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6** and a Minor Special Exception to permit a residential accessory building on a lot abutting the lot containing the principal use. **SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions** located 4132 W. 56th.

Presentation:

The applicant, **Larry A. Baker**, submitted a site plan (Exhibit L-1) and stated that he represents Lula Petty who owns the property. Mr. Baker stated that they want to build a garage on the location to store collectible automobiles and to have a small workshop. Mr. Baker stated that it will not be used as commercial property.

Comments and Questions:

Mr. White asked the applicant about the existing building on the north side. Mr. Baker answered that the existing building is where Mrs. Petty currently resides.

Mr. White asked the applicant if there is adjoining property. The applicant answered affirmatively. Mr. White asked if it was to the east and who owned it. The applicant replied Mrs. Petty owns it also.

Case No. 18023 (continued)

Mr. White asked Mr. Stump if a tie agreement would be necessary if the existing structure, which is occupied, remains. Mr. Stump answered yes, if the activity is accessory to a different dwelling than the one that is on the lot.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Variance to allow a 900 SF detached accessory garage in an RS-3 district. **SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6** and a Minor Special Exception to permit a residential accessory building on a lot abutting the lot containing the principal use. **SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions**, per plan submitted and subject to a tie agreement on the following described property:

Lot 8, Block 1, Doctor Carver Addition, Tulsa County, State of Oklahoma.

Case No. 18024

Action Requested:

Variance of requirement for all weather parking surface. **SECTION 1303.d DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 23** and an interpretation of previous action, Case BOA 11981, June 17, 1982 located 61 N. Yale.

Presentation:

The applicant, **Elizabeth Davis**, stated that she leases the property at 61 N. Yale and she resides in Sperry, OK. Ms. Davis stated that she is representing Mr. Brent Lee who is in Oklahoma City. Mr. Lee got his permit in 1982 and was unaware that he had to get another permit years later. Ms. Davis operates a wrecker service on the property. She tows for the highway patrol and has cars that are stored for the highway patrol that cannot be released because of taxes due. For security reasons, she needs someone on the property, in the mobile home 24 hours a day 7 days a week. The people who reside in the mobile home work for her. The man drives a wrecker and the woman runs the dispatch. Ms. Davis stated that when she talked to INCOG about this, because the City did grant a permit to allow the mobile home on the lot, that she did not have to require a permit because it is considered a mobile home. Ms. Davis mentioned that she was basically told that she did not have to have a permit to have someone reside in the mobile home because of the condition of having someone at her place of business at all hours. Ms. Davis stated that as far as the gravel permit was concerned, in the mile section where the subject tract is located, all the other businesses have gravel parking lots. The only paved parking lots are the QuikTrip and the businesses off of Admiral.

Mr. White asked the applicant what the nature of the vehicles on the lot is. The applicant replied that they are drunk drivers, wrecked vehicles kept on her property until everything is settled with the insurance company and also illegally parked vehicles. There is no disassembly of vehicles when they are brought onto the lot.

Mr. White asked if Code would like to make any comments. Ms. Parnell stated that her minutes stated that the mobile home was approved for office use and for security personnel at night to protect the vehicles. They needed a place for the security person to stay in out of the weather. Ms. Parnell stated that when she received the complaint she questioned the residential use. Ms. Parnell mentioned that she did not have a problem with it but thought it needed to be addressed.

Ms. Davis stated that the people who are residing there are being paid to be there. They do have a permanent address of their own in north Tulsa.

Mr. Cooper asked the applicant what the average number of cars on the lot is. The applicant replied 25-30 vehicles. Mr. Cooper asked the applicant what the turnover was on those cars, a day, week, etc. Ms. Davis replied that some of them could sit there for a year or more, because there may be a fight with the insurance company. Mr. Cooper asked Ms. Davis as to how many cars are brought into the lot per day. Ms. Davis answered that within a seven day period there is a possibility that 3 may be stored, but 5 may be released. Mr. Cooper stated that he is trying to get a feel for the traffic coming in and out of the lot, how many trips a day are going on. Ms. Davis answered that the only traffic coming in and out are the wreckers going out on a call. At any given time there would be three or four wreckers sitting in the lot waiting for a call. The vehicles that are brought in stay there until they are released by the highway patrol or the insurance is settled. Mr. Cooper asked the applicant how many times a day the wreckers come and go. The applicant answered about 10 times a day.

Mr. White stated that the traffic coming to and from the lot would not be that great. Mr. White stated that he had no problem with the gravel part. There is a church immediately to the south that has a gravel parking lot, PSO has a substation that is also gravel. Mr. White expressed concern over the fact that the property looks like a salvage yard. Mr. White stated that he did not know if there was anything that could be done as far as a screening requirement pertinent to this application. Ms. Davis stated that when the cars are brought in, no one is allowed to touch them or to take parts for salvage. Mr. White stated that even though it is not a salvage yard, it still looks like one and he believes that it would be a detriment to the neighborhood to have the continuing appearance like that for future development. Mr. Cooper agreed. Mr. White asked if Staff or Legal had any comments.

Mr. Dunham asked the applicant if she had any problem with a screening requirement, either planting or fence. The applicant replied that if she had to go to the expense of putting up a screening fence, she would just move her business elsewhere because

she leases the property and can not afford to build a fence. Ms. Davis stated that the property was a wrecker service before she moved in and was a repossession lot prior to that.

Mr. White asked Mr. Romig if they were being improper bringing this subject up, relative to this application. Mr. Romig answered no, since the purpose of the variance is to keep down dust and everything else, screening would have the same effect and would be within the realm. Mr. Romig stated his concern is the interpretation as to the mobile home that is there. Special Exceptions are allowed by law and variances are basically an approved use not allowed by law and if it is not absolutely clear that the mobile home was approved for residential use, then it needs to be made clear. Mr. White asked Mr. Romig if the Board could continue the application with qualification asking for the variance of the residency be appropriate. Mr. Romig answered affirmatively.

Mr. Dunham stated that it was his understanding that the people who live in the mobile home are actually paid to stay there.

Mr. White mentioned that whoever they may be, it is nonetheless being used as a residence.

Mr. Romig stated that the questions is, do they actually live there, regardless of whether or not they have a separate address, do they live, sleep, bathe, and cook meals there.

Mr. Cooper asked if a claim could be made that it is an accessory use to a salvage yard. Mr. Romig answered no, the residence would be a primary use and what would end up happening is you would have two primary uses.

Mr. Cooper made the statement that he felt that fencing was entirely appropriate regardless of what decision was made on the mobile home.

Mr. White stated that by continuing the case it would give Ms. Davis an opportunity to resolve two issues: the residency, either coming back for an additional variance or...Ms. Davis interrupted by saying that her business is open 24 hours a day 7 days a week and considering that she lives in Sperry, when she gets a highway patrol call in Tulsa, she has 15 minutes to get to the scene of the accident. She depends on the occupants of the mobile home to be able to answer those calls. The highway patrol will not allow the calls to be transferred to a cell phone or answering service; she needs someone there 24 hours a day to receive the calls.

Mr. White asked the applicant if the employees actually reside there. Ms. Davis answered yes.

Case No. 18024 (continued)

Mr. White stated that the problem is that they are trying to resolve the interpretation of the previous case on the usage of the mobile home and trying to accommodate the applicant and the Code requirements.

Mr. Romig stated that the mobile home was approved to be there, whether it was approved for office or residence is what is in question. Certainly you can get a Special Exception to have a residential use in your CH district and that would probably be what they need.

Mr. Dunham stated that they need to amend their application to add a request for a variance for residential dwelling in a CH district.

Mr. White suggested continuing the hearing to the meeting on May 26, 1998 so the application can be amended to receive the relief needed to solve the problem as far as the residency.

Mr. Cooper stated to the applicant that he is leaning towards wanting the applicant to put up a screening fence. Ms. Davis asked where the fence would be located, would it be only the fence line between her property and the church. There is no one else around. Mr. White asked what the requirements are on salvage yard screening. Ms. Davis stressed to the Board that this is not a salvage yard/lot, no one is allowed to touch the cars, they only sit on the lot until a decision is made about what to do with them.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **CONTINUE** Case No. 18024 until the Board meeting of May 26, 1998.

Case No. 18025

Action Requested:

Variance of required frontage of 150' to 125' in a CS District to permit a lot split.
SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 14 located 101st & Delaware Ave.

Presentation:

The applicant, **Michael Dodson**, 601 S. Boulder, Ste. 500, submitted a site plan (Exhibit M-1) and stated that he has submitted to the Board a revised site plan and survey which reflects a single point of ingress and egress to the property. In addition, the access point of 40' has been shifted to the west and basically creates a mutual access easement with the property to the east. Mr. Dodson stated that the design has

been reviewed by Mr. Eschelman, Traffic Engineer and he is in agreement with that situation. Generally, the hardship on this case is that they were required to match the depth of the property with the Git-n-Go that lies to the west, 220'. The proposed business use is a Texaco Express Lube. Mr. Dodson stated that they negotiated the lot split with the seller of the property to maximize the efficiency of the site and this express lube type business is not economic on large pieces of property. Mr. Dodson stated that this is a convenience business for consumers, they drive their car in and it is a 20-minute process where they change oil and other services. It is compatible with the Git-n-Go operation which sells fuel. Mr. Dodson said that the property does not appear to present any detriment to the neighborhood, there is currently a similar facility located in the 31st & Garnett area also with 125' of frontage in a CS district.

Comments and Questions:

Mr. Cooper asked Mr. Dodson if he had seen the Staff comments and Mr. Dodson answered no. Mr. Cooper stated that the Staff comments mention that the hardship is self-imposed. Mr. Cooper felt that the economics were driving the need for this variance as opposed to site restrictions. Mr. Cooper asked if there is anything preventing the applicant, other than economics from this site having 150' of frontage. Mr. Dodson stated that the Seller required that they match the depth with the Git-n-Go, and they are also developing the piece of property to the east, the negotiated frontage was 125'. Mr. Dodson stated that he has a site plan of the Seller's proposed development of the balance of that lot and they are using all of it. The Board expressed that they would like to look at the Seller's proposed development. Mr. Dodson approached the Board and described to the Board several factors about the Seller's property (Discussion not audible).

Mr. Dunlap stated that he believes Staff's position is that there is no hardship that they can see. It is an undeveloped tract of land, there is also a minor amendment to the PUD that is going before the Planning Commission tomorrow and he believes that Staff has similar comments on the minor amendment.

Mr. Dodson stated that he believed the revised site plan addresses the minor amendment.

Mr. Dunlap stated that the plat shows limits of no access in that area. Mr. Dunlap believes that there is a 12' strip that would not be affected by the limits of no access on the plat.

Mr. White asked Staff if the entire tract was PUD. Mr. Dunlap answered yes. Mr. White asked if this would only be a lot split of Tract 2. Mr. Dunlap said yes. Mr. White asked if the lot split approval before the Planning Commission tomorrow is contingent upon the approval of the Board's action. Mr. Dunlap mentioned that the case was before the Planning Commission last week and they wanted to wait and see what this

Board would do. Mr. Dunlap stressed that Staff is opposed to this lot split and the minor amendment.

Discussion not audible.

Mr. Cooper asked the other members of the Board if this site can't meet the standards and requirements why even bother having them. Mr. Cooper stated that you see a lot of hardships every day and here is a site that has the ability to be done with the intentions of the Code. Mr. Cooper mentioned that the Planning Commission is getting to look at the whole piece and the Board doesn't have any control over any of the other development.

Mr. Dunham mentioned that he thought things were being done in a reverse order, the Planning Commission should be looking at it first. Mr. Cooper stated that the Planning Commission has the ability to look at the entire site and that would be more beneficial to everyone. Mr. Cooper stated that it would be in Mr. Dodson's best interest to have the Planning Commission hear the case first, because he can not find a hardship.

Mr. Dunham stated that if the Planning Commission came to the Board and asked for its approval on both sites, that would be better. Mr. Dunham stated that he would like to look at an application that had not only this site but the rest of the property as well.

Mr. Dodson is confused about the prior delay from the Planning Commission. Mr. Dunham explained to the applicant that the Board wants to hear the entire property together since it is a PUD. Mr. Dunham stated that they would want to approve both of them. The concern the Board has is that if they approve this 125' lot what is to keep the owner from coming in 60 days from now with 350' left and wanting another 125' lot. Mr. Dunham stated that he wants to be assured that the rest of the property is going to be developed according to the plan.

Interested Party:

Roy Gann, 7715 S. Gary Place, stated that he owns property at the intersection for 21 years. Mr. Gann mentioned that he is not in opposition to what Mr. Dodson is putting in on the property. Mr. Gann stated that he wishes the Board would follow the Comprehensive Plan more or less. Mr. Gann said that when he bought his property he was under strict guidelines. Mr. Gann doesn't care what the use is as long as it is in accordance with the Comprehensive Plan and everything should be equal, fair and consistent.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **CONTINUE** Case No. 18025 to the Board meeting of May 26, 1998.

Case No. 18027 (continued)

Mr. Cooper asked the applicant what the status is on the other plan that was submitted. Mr. Thompson answered that if he built a straight drive-in garage and no bay window there would be no problem. The problem is that the bay window sticks out 2' and the extra concrete for the side entrance garage throws him out of compliance.

Mr. White stated that there is no relief requested on the bay window only on the livability space.

Mr. Cooper asked the applicant to state the hardship to the case. Mr. Thompson replied that the extra driveway space is needed for a large family so they do not have to park in the street and disturb the neighborhood.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Variance of livability space from 4,000 SF to 3,531 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit** per plan submitted and finding that the size and configuration of the lot is the hardship on the following described property:

Lot 4, Block 2, Cloverdale.

Case No. 18034

Action Requested:

Special Exception to permit a public park containing a memorial to the Rev. L.L. Tisdale in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** located Pine Street & L.L. Tisdale Parkway.

Comments and Questions:

A site plan was submitted and marked as Exhibit P-1. Mr. White stated that the applicant was not present and there were no interested parties or protestants.

Mr. Dunham asked Mr. Romig if the Board could vote on an application if the applicant is not present. Mr. Romig stated that if there is enough information in the file for you to make a determination that it is within the spirit and intent of the Code and would not be injurious to the neighborhood, the Board could vote on it without having anyone speaking.

Mr. White stated that he feels it is a great location for a park.

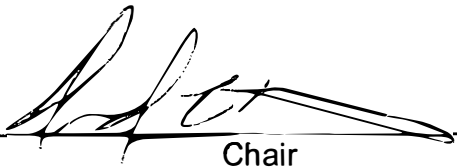
Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Cooper, Dunham, White, "aye"; no "nays", no "abstentions"; Bolzle, Turnbo "absent") to **APPROVE** Special Exception to permit a public park containing a memorial to the Rev. L.L. Tisdale in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** per plan submitted and finding that it meets the spirit and intent of the Code and is not injurious to the neighborhood on the following described property:

The S 220' of the N 440' of the W/2 of the SE/4 of the NE/4 of the SE/4 of Section 27, T-20-N, R-12-E.

The meeting was adjourned at 3:57 p.m.

Date approved: JUNE 9, 1998


Chair