

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 767  
Tuesday, February 23, 1999, 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>
Cooper Dunham, Vice Chair Turnbo, Secretary Perkins White, Chair		Arnold Beach Stump	Ballentine, Code Enforcement Parnell, Code Enforcement Jackere, Legal Department Prather, Legal Department

The notice and agenda of said meeting was posted in the Office of the City Clerk on Tuesday, February 16, 1999, at 10:36 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.

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**UNFINISHED BUSINESS**

**Case No. 18098**

**Action Requested:**

Appeal from the determination of the Neighborhood Inspector (Code Enforcement) of an unspecified violation of the Zoning Clearance Permit and Certificate of Use and Occupancy No. 126335 and an Appeal from the determination of the Code Official (Building Inspections) ordering the Applicant to *"remove outdoor storage of material including paper, cardboard and similar products awaiting processing in any manner associated with recycling as per zoning clearance permit."* **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, located 10601 E. Ute Street.

Case No. 18098 (continued)

**Presentation:**

The applicant, **Stephen A. Schuller**, 100 W. 5<sup>th</sup> Street, Suite 500, stated that there was a continuance granted on this case six months ago to today's date. Mr. Schuller reminded the Board that the applicant was to construct a building for storage of recyclable papers. Mr. Schuller mentioned that this process has taken longer than they expected. The owner of the property is a Judge in Missouri and it was not easy for him to come to Tulsa to look at the plans for the building. The owner has reviewed the plans and agreed to let them construct the building. It was then necessary to have a contractor to prepare detail plans and specifications for the building permit process. They received the plans this morning. Mr. Schuller stated that after the permits are issued it will take about four to six weeks to construct the building. The building will be very similar to the existing building on the property. Mr. Schuller mentioned that they have been meeting, on a regular basis, with the property owners association and they are pleased with what they are proposing to build. Mr. Schuller asked the Board for a ninety day continuance in order for them to complete the construction of the building.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 18098 to the meeting of May 25, 1999.

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**Case No. 18279**

**Action Requested:**

Special Exception to permit a Use Unit 13, day spa to include but not limited to manicure, pedicure, facials, sauna, baths, massage, wraps and tanning in an OM District. **SECTION 604. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS – Use Unit 13** and a Special Exception to remove the screening requirement on east side. **SECTION 212.C.1. & 4. SCREENING WALL OR FENCE, Modification of the Screening Wall or Fence Requirement**, located 2525 E. 51<sup>st</sup> St.

**Presentation:**

The applicant, **Adonna Roland**, submitted a site plan (Exhibit A-1) and was represented by Lou Reynolds, 2727 E. 21<sup>st</sup> St, Suite 200. Mr. Reynolds stated that this property is bounded on the north side by I-44 and on the south side by E. 51<sup>st</sup> St. It is also bordered on the east side by an apartment complex and a creek between the apartment complex and the site and to the west is office buildings. Because of the topography of the land and the creek, Mr. Reynolds is asking for a Special Exception to waive the screening requirement. The property line is in a depression about 6' or 7' deep, therefore the screening fence would not screen anything. Mr. Reynolds submitted photos (Exhibit A-2) of the property and the creek. Mr. Reynolds does not

believe that using this property as a day spa will be injurious to the neighborhood in any way. Mr. Reynolds mentioned to the Board that this property has been approved by the Tulsa Metropolitan Area Planning Commission to be zoned OM.

**Interested Parties:**

**Harry Crow**, 406 S. Boulder, stated that he owns the residence across the street to the southeast of the property. Mr. Crow is opposed to the application and believes that the applicant is trying to get by Special Exception what he could not get by zoning. He does not believe that this will be an advantage to the neighborhood.

**Applicant's Rebuttal:**

None.

**Comments and Questions:**

Mr. Dunham mentioned that this property has been on office building for many years. Even though it was zoned RM it has been used for office for a long time. He has no problem with the use and he does not see the commercialization of the area going any further to the east because of the existing apartments.

Mr. Cooper asked Staff what the square footage of signage allowed? Mr. Stump replied that they would not be allowed any additional signage because of the special exception, it would just be office signage which is very limited. It is two-tenths of a square foot for each linear foot of frontage and only one sign per street frontage. Mr. Cooper does not have any objection to the application.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit a Use Unit 13, day spa to include but not limited to manicure, pedicure, facials, sauna, baths, massage, wraps and tanning in an OM District. **SECTION 604. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS – Use Unit 13** and a Special Exception to remove screening requirement on east side. **SECTION 212.C.1. & 4. SCREENING WALL OR FENCE, Modification of the Screening Wall or Fence Requirement** finding that the special exceptions will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare on the following described property:

Beginning 30' N of the SE/c of the SW/4 of the SW/4 thence W 164.28', N 159.93' to a point on the Sly line of the highway, SE along the highway right-of-way 20.87', S 22', SE 146.7' and S 105' on an unplatted lot, Section 29, R-13-E, T-19-N, Tulsa County, Oklahoma.

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**Case No. 18287**

**Action Requested:**

Variance from the required setback from the centerline of S. Peoria Ave. from 70' to 29.75'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** a Variance to permit a structure in the Planned Right-of-Way of S. Peoria Ave. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS** and a Variance of the allowable fence height in the front yard from 4' to 8'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 1234 E. 20<sup>th</sup> St.

**Presentation:**

The applicant, **Scott Sanford**, 1234 E. 20<sup>th</sup> St., stated that he is asking to construct a garage in his backyard and he is limited to a very small amount of space in which to do it. He now backs onto Peoria Ave. and he would like to move the garage so he does not have to do that now. The structure will be hidden by an 8' privacy fence that will run parallel down Peoria Ave.

**Comments and Questions:**

Ms. Turnbo asked Mr. Sanford if he would object to a removal contract with the City of Tulsa in case they ever widen Peoria. Mr. Sanford stated that if the City ever widened Peoria right there they would have to buy his house because the new right-of-way line would run through the middle of his property. Mr. Sanford agreed to a removal contract with the City of Tulsa.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the setback from S. Peoria from 15' to 5' for a detached garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance of the allowable fence height in the front yard from 4' to 8'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, subject to a removal contract along the right-of-way of Peoria Ave., finding the hardship to be the topography and size of the lot, on the following described property:

E/2, Lot 1, Block 4, Maple Heights Addition.

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**NEW APPLICATIONS**

**Case No. 18308**

**Action Requested:**

Variance of 30' frontage requirement down to 25'. **SECTION 206. STREET FRONTAGE REQUIRED**, located 2741 N. Yukon.

**Comments and Questions:**

Mr. Beach mentioned to the Board that since Mr. King was not present they could continue the case to the next meeting and Staff will attempt to contact him.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 18308 to March 9, 1999.

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**Case No. 18309**

**Action Requested:**

Variance of the required front yard from 35' to 30' on all lots in subdivision in an RS-1 zoned district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 121<sup>st</sup> St. S. & S. Joplin.

**Presentation:**

The applicant, **Ted A. Sack**, 111 S. Elgin, submitted a cite plan (Exhibit C-1) and stated that he is asking for a Variance of the setback in an RS-1 zoned subdivision. The tract is being developed by Mrs. Huckabee and it lies on the north side of 121<sup>st</sup> Street west of Sheridan. The tract is narrow and lengthy and the topography is quite steep. Most of the other subdivisions around the area have been developed by the PUD process with similar zoning and setbacks. Due to the topography, Mr. Sack asked the Board to allow them more room to build the homes.

**Comments and Questions:**

Mr. Cooper asked Mr. Sack if his hardship is the topography of the land. Mr. Sack replied yes, the topography and the width of the tract which is quite narrow. Mr. Sack stated that they did have the option to go through the PUD process but since the setback was the only thing that they needed they did not think they needed to proceed through the PUD process.

Case No. 18309 (continued)

Mr. Cooper asked Mr. Sack to respond to comments that this is a self imposed hardship. Mr. Sack replied that they are trying to reduce the density. There are properties to the north of this one that are zoned RS-2. In laying out the lots and trying to keep from having a straight street up through the middle of this property, they need the reduction on the setback in order to give them more flexibility.

Mr. Dunham asked if the Board granted similar relief to the subdivisions to the west. Mr. White seems to remember that they did but it is not indicated on the case report. Mr. Beach could not recall the exact subdivisions but he believes that the Board has done this before.

Mr. Beach pointed out that this application can be granted as a Special Exception. The Board has a policy that a reduction of 5' or less of the required front yard can be granted by Special Exception, so there is no hardship finding required.

Mr. Dunham asked if the property was zoned RS-2, could the applicant do the 30' front yard by right? Mr. Beach answered affirmatively.

Mr. Stump mentioned to the Board that they just have to find that it is compatible with the surrounding area and there are no other lots that connect with this so the front yard should be consistent throughout the subdivision. Mr. Stump pointed out that this application is actually a Minor Special Exception.

**Interested Parties:**

**Jim Garrot**, 6105 E. 121<sup>st</sup> Street, stated that he is opposed to this application. Mr. Garrot believes that the developer is trying to maximize the number of lots on this piece of property.

**Applicant's Rebuttal:**

Mr. Sack stated that they have tried to reduce the number of lots in this area. They feel like this is compatible with the other subdivisions in the area and most of them have been done under a PUD with less setbacks than what they are asking for. Mr. Sack believes that the subdivision flows well with the topography and is an asset to the area.

**Comments and Questions:**

Mr. White mentioned that he is in receipt of a letter (Exhibit C-2) from Bill Cyganovich, Transportation/Public Works with the City of Tulsa. He believes that the required front yard should remain the 35' in depth and the granting of this variance will set incorrect precedent for future development in the area.

Mr. Stump mentioned to the Board that this application should be considered a Minor Special Exception instead of a variance.

Case No. 18309 (continued)

Ms. Turnbo stated that she does not have a problem with this application and she does not feel that it will be detrimental to the neighborhood.

Mr. Cooper asked Mr. Stump if this property had gone through the PUD process, would it have been approved? Mr. Stump answered affirmatively. Mr. Stump stated that there are several examples of developers wanting to have 5' less in the front yard for the entire subdivision. At the time it was classified as a Variance and the Board granted a few of them but it is very difficult to show a unique hardship when a developer is laying out new ground. There was also the recognition that there is no real harm done when it is done for an entire subdivision. So they came up with the 5' reduction in the front yard being a Minor Special Exception rather than a variance. More people now like smaller front yards and larger back yards.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Minor Special Exception of the required front yard from 35' to 30' on all lots in subdivision in an RS-1 zoned district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

The E/2 of the E/2 of the SW/4 of the SE/4 and the N 901.86' of the W/2 of the W/2 of the W/2 of the SE/4 of the SE/4 of Section 34, T-18-N, R-13-E, Tulsa County, State of Oklahoma.

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**Case No. 18310**

**Action Requested:**

Special Exception to allow a government (municipal) safety training facility (Use Unit 2) in an RMH zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2**, located W of SW/c I-244 & N. Garnett.

**Presentation:**

The applicant, **J. D. Turner**, 2317 S. Jackson, submitted a site plan (Exhibit D-1) and stated that he is a project engineer with the City of Tulsa. This facility is located at Admiral and Highway 169. The majority of the facility is in the flood plain and the City bought it out. The City is using the property for the training of various equipment operators. They would like to put a facility in the northeast corner out of the flood plain to provide a classroom, breakroom, restroom facilities and several offices.

**Interested Parties:**

**Leleta Lingle**, 28 North 106<sup>th</sup> Place East, stated that her property is near the subject property and they are curious if there will be any more land than they currently have now. Mr. Turner showed Ms. Lingle the plans and she does not have any problem with the site.

**Billy Young**, 10875 E. Admiral, stated that his property is on the north side of the creek that is on the subject property. Mr. Young wants to know if the facility will be open during non use hours for public use, such as teaching a teenager to drive.

Mr. White mentioned that he does not believe the City would do that because of the liability issue.

**Applicant's Rebuttal:**

Mr. Turner did not know if the City would be willing to let the public on its facility but the interested party should go through the Mayor's Action Line to find out.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to allow a government (municipal) safety training facility (Use Unit 2) in an RMH zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2**, finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, per plan submitted, on the following described property:

All of Holiday Park, a part of the S/2 SE/4, Section 31, T-20-N, R-14-E, lying S of the Crosstown Expressway, Tulsa County, State of Oklahoma, less and except that portion now platted as Sanders England First not owned by Granter; and less and except the following two described tracts: **TRACT I:** A part of Block 1, Holiday Park, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Beginning at the most SE/c of Block 1, Holiday Park, said point being on the N right-of-way line of E. Admiral Pl.; thence S 88°57'11" W along the S line of said Block 1, a distance of 125.00' to a point, said point being 40.00' E of the most SW/c of Block 1; thence N 01°07'19" W a distance of 525.41' to a point; thence N 88°57'11" E a distance of 125.00' to a point on the E line of Block 1, Holiday Park; thence S 01°07'20" E a distance of 525.41' to the point of beginning and containing 65,676 SF or 1.50771 acres more or less AND **TRACT II:** A part of Block 1, Holiday Park, an addition to the City of Tulsa, Tulsa County, State of Oklahoma being more particularly described as follows, to-wit: Beginning at the most NE/c of Block 1, Holiday Park, said point being the intersection of the S right-of-way line of the Crosstown Expressway (I-244) and the W right-of-way line of N. Garnett Rd.; thence S 86°06'00" W along the S right-of-way line of I-244 a distance of 414.27' to a point; thence S 80°13'05" W along the S right-of-way line of I-244 a distance of 365.45' to a point; thence S 01°06'28" E a distance of 79.28' to a point; thence N 88°44'55" E a distance of 775.07' to a point on the W right-of-way line of N. Garnett Rd.; thence N 01°06'53" W along the E line of said Block 1, Holiday Park, a distance of 152.50' to the point of beginning and containing 96,600 SF or 2.21763 acres, more or less.



**Case No. 18311**

**Action Requested:**

Variance of the landscape requirements for no landscaping on new parking lot. **SECTION 1002. LANDSCAPE REQUIREMENTS – Use Unit 10**, located NW/c S. Lakewood Ave. & E. 13<sup>th</sup> St.

**Presentation:**

The applicant, **J. D. Turner**, 2317 S. Jackson, submitted a site plan (Exhibit E-1) and stated that he is with the City of Tulsa. This request is because Lakewood Street will never be utilized as a street. There is a million square foot detention pond to the south and the pond drains through the area shown as a street. The area is heavily wooded and the east side is a small creek. The City would like to use part of the street area as a driveway to get to their back parking area. Since the area is heavily wooded there is no need for landscaping.

**Comments and Questions:**

Mr. Dunham asked if there is anything that is being changed in the area. Mr. Turner replied that they are converting a gravel storage area into a paved parking lot. They are also completely renovating the inside of the building.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-1-0 (Dunham, Turnbo, Perkins White "aye"; Cooper "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the landscape requirements for no landscaping on new parking lot. **SECTION 1002. LANDSCAPE REQUIREMENTS – Use Unit 10**, finding the hardship to be the surrounding area, on the following described property:

Lot 14, Block 3, C & C Industrial Park, City of Tulsa, State of Oklahoma.

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**Case No. 18312**

**Action Requested:**

Variance to permit a structure to be located in the planned right-of-way as designated on the Major Street and Highway Plan. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS – Use Unit 10**, located SW/c E. 15<sup>th</sup> St. & S. Baltimore Ave.

**Presentation:**

The applicant, **Roy D. Johnsen**, 201 W. 5<sup>th</sup> Street, Suite 501, submitted a site plan (Exhibit F-1) and stated that he appears on behalf of Boulder Towers. This was before the Board in September and was approved for a landscape plan. When the owners sought a building permit, Mr. Ackerman made an interpretation that parking was a structure as defined by the Zoning Code. At the time, 15<sup>th</sup> Street was an arterial

street. Mr. Johnsen disagrees with that interpretation. In the past, it has been recognized that you can park in planned right-of-way. Some years back there was an interpretation that parking within planned right-of-way would not qualify as required parking. That has now gone from required parking to any parking is not allowed in the planned right-of-way. The Code definition stated that anything affixed to the ground, including fences, walks (typo intended to mean walls), signs. It does not say parking. You can argue that paving is affixed to the ground. In this instance, what was planned as 100' of right-of-way is actually 60', the Staff report reflects that it is likely that it will change to 70'. Mr. Johnsen stated that they have 5' of landscaping between the property line and the parking lot. It seems that if the right-of-way is going to be 70' and there is actually 60' that is a total of 5' of each side of the centerline. Mr. Johnsen is confused about how Mr. Beach arrived at his figure of 4'6" that the parking lot was going to extend into the planned right-of-way. Mr. Johnsen believes that a removal contract makes sense for buildings, but with a parking lot, there is only paving and landscaping. They are on a short time frame and there is no need for a removal contract.

**Comments and Questions:**

Mr. Stump mentioned to the Board that they are not on for an interpretation of the Zoning Code only for a request for a variance. Mr. Johnsen stated that the Board always determines if there is relief needed or not.

Mr. Ackerman stated that it is not his interpretation, he implemented an interpretation that he was advised of by Staff that parking lots are considered to be structures and that parking lots are not to be allowed in the right-of-way. In the 2½ years that he has been with the City, this has been a standard procedure.

Ms. Turnbo stated that on 15<sup>th</sup> Street the Board approved parking in the planned right-of-way for Luby's Cafeteria. Mr. Ackerman stated that this is the same situation. Ms. Turnbo asked if they did a removal contract on the Luby's property. Mr. Ackerman does not know. Mr. Stump does not believe that they had one.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance to permit a structure to be located in the planned right-of-way as designated on the Major Street and Highway Plan. **SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS – Use Unit 10**, finding that it meets the requirements of Section 1607.C., subject to the structure being limited to a parking lot, per plan, on the following described property:

Lots 1 through 5, Block 2, Amended Plat of Earns Addition, City of Tulsa,  
Tulsa County, State of Oklahoma.

**Case No. 18313**

**Action Requested:**

Special Exception to allow a fence (wall) that is over 8' in height. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards**, located 4011 S. Yorktown Place.

**Presentation:**

The applicant, **Tony Jordan**, 5220 E. 191<sup>st</sup> St. S., submitted a site plan (Exhibit G-1) and stated that he is the building contractor for Charles and Lynn Schusterman. They are asking for a variance to extend a 6' wall on top of the retaining wall already constructed on the property.

**Comments and Questions:**

Mr. Dunham asked Mr. Jordan what is the necessity for a wall this high in this area? Mr. Jordan replied that the decorative wall is about 6' and sits on a 4½' retaining wall. The retaining wall is there to build the location of the house up because the property slopes about 14' from the highest point to the lowest point.

Mr. White stated that he could not get into the area because it is a gated community but he did drive on 39<sup>th</sup> Street and saw the property that way. It is a high wall and he is surprised that there is no one there to protest it. Mr. Jordan mentioned that they have spoken to most of the neighbors and they do not have an objection.

**Steve Williams**, stated that he is the landscape architect for the Schustermands. The retaining wall has already been constructed and runs at a varying height of 4' to 6'. They are proposing to construct a 6' screen wall on top of the retaining wall to screen the Schusterman's outdoor living space. The wall will be stucco and will be aesthetically pleasing to everyone. One portion of the wall will have iron fencing on the top.

The Board felt that since nobody from the neighborhood showed up to protest, the wall was agreed to by the neighbors and would not be a deterrent to the area. Mr. Williams stated that not only did the neighbors receive the Board of Adjustment notice, the Schusterman's also sent a notice to the surrounding homeowners.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to allow a fence (wall) that is over 8' in height. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards** finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, per plan submitted, on the following described property:

Case No. 18313 (continued)

Lot 4, Block 1, Royal Oaks Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 18314**

**Action Requested:**

Special Exception to allow a children's day care center in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, located 4939 S. Yorktown Ave.

**Presentation:**

The applicant, **Kenneth Chapman**, 8330 S. 74<sup>th</sup> E. Ave., submitted a site plan (Exhibit H-1) and stated that this facility was originally approved for use as a day care center and in 1967 it was approved for use as a beer tavern. They would like to remove that use and return it to its original use, a day care center. Mr. Chapman stated that they have been through the plans approval process with the City of Tulsa.

**Comments and Questions:**

Mr. Beach mentioned that they are concerned about whether or not there is an outdoor playground. There is a swimming pool shown on the site plan. The site plan appears to be very old. Mr. Chapman replied that the pool has been filled in and leveled out. The playground will be on the site shown as the pool.

Mr. Dunham inquired as to the days and hours of operation and Mr. Chapman responded Monday through Friday from 6:00 a.m. to 6:00 p.m.

Mr. White asked if most of the customers of the day care will be tenants of the apartment complex. Mr. Chapman replied yes, but there will be some children from outside the complex.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to allow a children's day care center in an RM-2 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, subject to all the appropriate licenses and inspections, on the following described property:

Lot 1, Block 2, Jordan Addition, City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18315**

**Action Requested:**

Variance of front setback from E. 80<sup>th</sup> St. S. from 30' to 20' to permit an existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 3222 E. 80<sup>th</sup> St. S.

**Presentation:**

The applicant, **Cindy Read**, 7615 E. 63<sup>rd</sup> Place, Suite 105, submitted a site plan (Exhibit I-1) and stated that she is representing her clients Jerry and Evelyn Harrison on the sale of the home on 80<sup>th</sup> Street. One of the title requirements is to have this variance because the home is 6' to 10' over the building setback line. The house was built in 1970.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of front setback from E. 80<sup>th</sup> St. S. from 30' to 20' to permit an existing dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, finding that it meets the requirements of Section 1607.C., per plan, on the following described property:

Lot 1, Block 11, Amended Walnut Creek, a subdivision in the City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 18316**

**Action Requested:**

Special Exception to permit a mini storage in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16**, located SW of 45<sup>th</sup> St. & Peoria Ave.

**Presentation:**

The applicant, **Kevin Coutant**, 320 S. Boston, Suite 500, stated that the subject property is located south and west of the intersection of 45<sup>th</sup> and S. Peoria Ave. . It is proposed to put a mini-storage on the property. The property in question is located on what used to be the playground of Holmes Elementary School. The Tulsa Ballet Theater Company bought all of this land a number of years ago and they use the back portion of it for their administrative offices. The front of the building is a retail strip center. Mr. Coutant submitted a packet of information (Exhibit K-1). Mr. Coutant described the surrounding properties to the Board and explaining that this is a low profile project with very little traffic. Mr. Coutant pointed out to the Board that on page

Case No. 18316 (continued)

7 of his packet he has included some additional conditions the Board may wish to impose on the project. Mr. Coutant and the developer of the property have met with the neighbors and no one appeared to be in opposition to the project.

**Interested Parties:**

**David Pattack**, 1101 E. 34<sup>th</sup> Street, stated that he is the Zoning Chairman of the Brookside Neighborhood Association. The Association is not opposed to the mini-storage complex. The area is concerned about lighting and suggests that it be directed inward towards the property.

**Applicant's Rebuttal:**

Mr. Coutant stated that the lighting could be added as a condition. He agreed with the suggestion of the lighting being directed downward and away from the residential area.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit a mini storage in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16**, with the following conditions:

1. Maximum building height be limited to 12 feet (accessory office – 35 feet).
2. Minimum boundary setback be limited to 5 feet.
3. Floor area ratio is not to exceed .5.
4. Vehicle storage permitted only where indicated on site plan.
5. Screening fence or masonry wall along lot line(s) in common with R District.
6. Access to arterial street via access easement as shown on site plan.
7. Accessory office building may be located within site.
8. Lights to be mounted on the buildings and directed down and away from neighboring properties.

finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 3 and the S 60' of the W 150' of Lot 2, and the N 150' of the S 210' of the W 50' of Lot 2, and the S 210' of S. Owasso Pl. (private street) insofar as the same is contiguous to such Lot 2, Brookside Center, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18317**

**Action Requested:**

Variance of setback from an R district boundary from 75' to 10' on the east and west, and 20' on north across E. 2<sup>nd</sup> Street to permit construction of IL zoned lots. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 25**, located W of SW/c E. 2<sup>nd</sup> Street & S. Quincy.

**Presentation:**

The applicant, **Delmer Adkins**, 123 S. Peoria, submitted a site plan (Exhibit J-1) and stated that he would like to build a warehouse on the lots that they have acquired. It is bounded on the west by a vacant residential lot and on the east by a lot that has a vacant lot on it. In order to build the warehouse, they need the setbacks from the residential districts.

**Comments and Questions:**

Mr. Dunham stated that the plan submitted does not show a building extending to within 10' of the west property line. According to what they need to build they don't have a problem with the west property line. Mr. Adkins stated that they want to build a warehouse that is 70' x 100' that is 10' from the east property line.

Mr. Beach asked how far the building will be from the west property line and the applicant replied 70'.

There was much discussion about distances from the property lines and zoning lines.

The Board and Staff determined that the applicant needs the following relief:

From the North side:	75' required to 60'
From the East side	75' required to 10'
From the South side	none
From the West side	75' required to 70'

The applicant agreed with the relief. Mr. Beach told the Board to not approve this application "per plan".

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of setback from an R district boundary be approved as follows:

From the North side:	75' required to 60'
From the East side	75' required to 10'
From the South side	none
From the West side	75' required to 70'

Case No. 18317 (continued)

to permit construction of IL zoned lots. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 25**, finding that it meets the requirements of Section 1607.C., on the following described property:

Lots 4, 5 and 6, Block 16, Lynch & Forsythes Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 18318**

**Action Requested:**

Special Exception to allow a children's day care (Use Unit 5) in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, located 404 E. 58<sup>th</sup> St. N.

**Presentation:**

The applicant, **Ruth Carter**, 2729 N. Hartford, submitted a site plan (Exhibit L-1) and stated that she has owned the property at 404 E. 58<sup>th</sup> Street for a number of years. Ms. Carter has used the property for rental property only to have it torn up several time. Since there is a need for a day care in the area she is proposing to put one in the house.

**Comments and Questions:**

Mr. Dunham asked the applicant how many children will be there and how many employees will be working there? Ms. Carter replied that it will be her and her two daughters working there and they can probably have about 22 children.

Mr. Dunham asked if a residence will be maintained at this address or will it strictly be used as a daycare? Ms. Carter answered that it will only be used for a day care.

Mr. Dunham asked what the days and hours of operation will be and Ms. Carter replied Monday through Friday from 6:00 a.m. to 6:00 p.m.

Mr. Dunham asked Staff how many parking spaces would be required and Mr. Beach replied one space per every 500 square feet or three parking spaces (based upon 1,176 square feet). Ms. Turnbo asked the applicant if they have three parking spaces on their property. Ms. Carter responded that there are two spaces in the driveway and one in front of the house.



Case No. 18318 (continued)

Mr. Jackere pointed out to the Board that in order to have a commercial day care the Code requires a building to be a minimum of 12,000 square feet and it also requires that the lot have a minimum of 100' of frontage and this lot only has 60' of frontage. The Code also requires the building to be setback 25' from abutting properties and this property sits back about 7'. Mr. Jackere stated that this lot does not comply with any of the requirements of a commercial day care center in an RS District.

Mr. Beach stated that the only thing before the Board is whether or not a day care center is appropriate in this area. Unless the Board is willing to grant the additional relief needed, which is not before them today, they should not approve this application because it would be misleading to the applicant.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **DENY** Special Exception to allow a children's day care (Use Unit 5) in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5** on the following described property:

Lot 9, Block 18, Suburban Hills, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 18319**

**Action Requested:**

Special Exception to permit a 6' fence which encloses a required front yard. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards – Use Unit 6**, located 3507 E. 21<sup>st</sup> St. S.

**Presentation:**

The applicant, **Jarred R. Torrance**, 1722 S. Carson, #2400, submitted a site plan (Exhibit M-1) and stated that he is representing Mrs. Paul Marshall who owns the property. Ms. Marshall wants to replace an existing chain link fence with a more secure fence. The proposed fence will be 6' in height and include security gates. Mr. Torrance mentioned that along 21<sup>st</sup> Street, Jamestown and Knoxville the fence will be wrought iron. There will be a wood fence along the back or north side of the property.

**Comments and Questions:**

Mr. White stated that the Board is in receipt of several letters from neighbors (Exhibit M-2) who are in opposition to a wood fence along Knoxville. There are no other objections. Staff noted that the plans submitted show a wood fence along Knoxville.

**Interested Parties:**

**Bill Weinreck**, President of the Sunrise Terrace Association, stated that they are supportive of the wrought iron fence and especially on Knoxville.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit a 6' fence which encloses a required front yard. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards – Use Unit 6**, finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, subject to a wrought iron fence being located on Knoxville, Jamestown and 21<sup>st</sup> Streets, and the fence along the north property line shall be wood, on the following described property:

Lot 9, Block 18, Suburban Hills, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 18320**

**Action Requested:**

Special Exception to permit a 300' self-supporting tower to be closer than the required 110% setback from residential districts. **SECTION 1204.C.3.g.1. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4;** a Special Exception to allow a self-supporting tower that is not of monopole design. **SECTION 1204.C.3.b.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions** and a Special Exception from requirement to provide a continuously maintained buffer of plantings to screen the tower compound from property within 300' used for residential purposes. **SECTION 1204.C.5.c. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions**, located 10875 E. Admiral.

**Presentation:**

The applicant, **Titan Towers, L. P.**, was represented by David Buskirk of Cimmaron Land Services, P.O. Box 2284, Edmond, OK 73083. Mr. Buskirk submitted a site plan (Exhibit N-1) and stated that they are requesting a tower type and setback variance to allow the construction of a 300' antennae support structure and the placement of a 12'

x 28' equipment building on a parcel. Once constructed, the tower will serve the applicant and the community as a wireless networking center as well as the location being made available for any other wireless provider. The area surrounding this proposed location is primarily commercial in the highway corridor and there is residential property to the west. The proposed location of the tower is in the rear portion of a 460' x 850' tract of land known as Young's Four-Wheel Drive Repair Shop. Mr. Buskirk submitted a packet of maps and information to the Board. Mr. Buskirk stated that the hardship is their grid system. Without the approval of this application Titan Towers will not be able to serve the public and the community as well as they should. Another hardship is their required height and they must have the height in order to function well. The applicant will be licensed by the FCC and the FAA to provide wireless networking services.

**Comments and Questions:**

Mr. Stump asked the applicant if his hardship is because he needs this for good coverage but they can't tell where the other towers are because they can't reveal who they are covering. Mr. Buskirk stated that they already have one tower in the City and they will utilize other structures as well. Mr. Jackere pointed out that this is an application for special exceptions and not variances and there is no need for a hardship finding.

**Interested Parties:**

**Billy Young**, stated that he is the owner of the property and he believes that this tower will take the place of several small towers in the immediate area. Mr. Young stated that this is a good location for the tower. North of his property is a creek and the police training facility.

Mr. Ballentine, Neighborhood Inspector, stated that he received a call from one of the neighborhood associations in the area with some objections but they are not present to voice their objections.

**Comments and Questions:**

Mr. Beach asked the applicant how many antennas will be located on the tower. Mr. Buskirk replied that he does not know at this time. Mr. Beach asked why the tower needs to be 300' tall and he stated that the Board has the ability to approve something less than 300' and he is looking for a reason why they should approve 300' and not 100'. Mr. Buskirk stated that preliminary engineering indicated that they would need 400'. Because of some changes they made and a case that was denied they were able to reduce this particular site to 300'.

Mr. Stump asked how many feet from the nearest residence is the tower located and Mr. Dunham replied 27' from the RS boundary. Mr. Stump mentioned that probably none of the mobile home owners in the RMH district were notified because the notice would have gone to the owner of the mobile home park.

Case No. 18320 (continued)

Mr. Cooper stated that he continues to struggle with these towers that are being put up in or near residential areas. Mr. Dunham stated that it appears that the applicant has done his homework in contacting most of the owners but they were given guidelines by people who studied this and the towers are supposed to be setback 110% of the tower height. Mr. Dunham believes that this tower is just too close. Ms. Perkins agrees.

Mr. White mentioned that earlier in the year the Board approved a 500' tower for this same company. Mr. White stated that the corridor that they are working in now does have some other high structures and towers.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 3-1-1 (Cooper, Dunham, Perkins "aye"; White "nays", Turnbo "abstentions"; no "absent") to **DENY** Special Exception to permit a 300' self-supporting tower to be closer than the required 110% setback from residential districts. **SECTION 1204.C.3.g.1. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4;** a Special Exception to allow a self-supporting tower that is not of monopole design. **SECTION 1204.C.3.b.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions** and a Special Exception from requirement to provide a continuously maintained buffer of plantings to screen the tower compound from property within 300' used for residential purposes. **SECTION 1204.C.5.c. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions**, on the following described property:

A tract of land located in the E/2 of the E/2 of the W/2 of Lot 1, Section 6, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma, more particularly described as follows: Beginning at a point S 88°44'42" W a distance of 745.19' and S 01°09'31" E a distance of 67.00' from the NE/c of said Lot 1; thence S 01°09'31" E a distance of 80.0'; thence S 88°44'42" W a distance of 80.0'; thence N 01°09'31" W a distance of 80.0'; thence N 88°44'42" E a distance of 80.0' to the point of beginning.

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**Case No. 18321**

**Action Requested:**

Special Exception for expansion of a church in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5,** located 10811 E. 41<sup>st</sup> St. S.

**Presentation:**

The applicant, **Ronald L. Marsh**, 4821 S. Victor, submitted a site plan (Exhibit O-1) and stated that he is a member of the church and he is also the construction manager for the church assuming that they do go forward. There are two buildings on the property, the first is a metal building that was constructed in 1971 and the other building was added seven or eight years later. Mr. Marsh mentioned that they are going to build all the way around the first building and connect the two buildings. There will be a 25' addition on the north, a small addition to the entry on the east and a 75' addition onto the south and it will be done in stages over the next 12 months.

**Comments and Questions:**

Mr. Dunham asked the applicant if he had any problem with a condition that no parking be permitted in the required front yard. Mr. Marsh replied no, there is none now and there are trees lining both sides of the parking. Mr. Marsh stated that they are not adding any parking to the existing parking spaces.

Mr. Leon Ragsdale, stated that he is the architect for the church. He said that there will be no parking in the required front yard.

**Interested Parties:**

None.


**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception for expansion of a church in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5**, finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, subject to no parking being permitted in the required front yard, per plan except for the parking, on the following described property:

W/2 E/2 SW, SE, Section 19, T-19-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:35 p.m.

Date approved: March 9, 1999  
  
Chair

