

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 771
Tuesday, April 27, 1999, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Cooper Dunham, Vice Chair Perkins White, Chair	Turnbo	Arnold Dunlap	Ballentine, Neighborhood Insp. Parnell, Neighborhood Insp. Jackere, Legal Dept. Ackermann,

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday, April 23, 1999, at 2:30 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair, White called the meeting to order at 1:07 p.m.

MINUTES:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE** the Minutes of March 23, 1999 (No. 769).

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MINUTES:

On **MOTION** of **PERKINS**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE** the Minutes of April 13, 1999 (No. 770).

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Cooper in at 1:05 p.m.

UNFINISHED BUSINESS

Case No. 18355

Action Requested:

Variance of the required 75' setback to 5' from an abutting R District to facilitate drainage. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 16**, located 1303 N. Garnet Road.

Comments and Questions:

Mr. Dunlap mentioned that on March 23, 1999, the Board requested of the applicant a drainage plan. Staff did not receive a drainage plan but they are in receipt of comments from an engineer.

Presentation:

The applicant, **Jake Floyd**, 2909 E. 29th Street, Tulsa, OK, submitted an engineer's report (Exhibit A-1) and stated that he represents the property owner who is interested in developing the tract into a mini-storage development. Mr. Floyd mentioned that they are asking for a variance down to 5' in order to construct a mini-storage building. Mr. Floyd stated that they would like to amend their request so that the 5' variance would only affect the East 900' of the South property line. The area has bad drainage and they have visited with Stormwater Management at the City of Tulsa about how they could build the mini-storage facility without exacerbating the problem. Mr. Floyd thought the Board wanted him to submit an engineer's report and not a drainage plan. He indicated that he has spoken with the neighbors and they have worked out most of the problems. Mr. Floyd indicated that before anything proceeds, a full drainage report/study will be submitted to Stormwater Management for their final approval.

Comments and Questions:

Mr. Dunlap stated that in the engineer's report there is an additional variance request of the screening requirement. That variance request has not been part of the original application and has not been advertised. Mr. Floyd responded that he was not aware that it would have to be readvertised. Mr. Floyd suggested acting on the variance and continuing the waiver of the screening fence.

Interested Parties:

Mary Ann Yarbrough, 1225 North Garnett, stated that her property adjoins the subject property to the south. Ms. Yarbrough mentioned to the Board that the neighbors have spoken to Mr. Floyd about his proposed project. They have been able to work out many of their problems. Mr. Floyd assured Ms. Yarbrough that once the variance is approved they will then submit the drainage plan to the City. The plan indicates that the neighbors will not have any additional water runoff to their property. Ms. Yarbrough submitted photos of the property (Exhibit A-2). Ms. Yarbrough explained to the Board that there is a water problem in the area and the residents have learned to live with it but their largest concern is about additional water coming onto their properties.

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Mr. White asked Ms. Yarbrough if she had any problem with the buildings being constructed 5' from the property line? Ms. Yarbrough replied that she did not have a problem with that. The only concern that she has is drainage.

George Palmer, stated that he owns the 880' adjoining the subject property to the south. Mr. Palmer opposes the application.

Applicant's Rebuttal:

Mr. Floyd stated that the 5' variance is not the bulk of the problem. The bulk of the problem is further north. The water flows from the southeast to the northwest. Mr. Floyd explained that yesterday everyone in the area was flooded from all of the rain over the past few days. He believes that the drainage on Garnett needs to be addressed by the City.

Comments and Questions:

Mr. Dunham asked if the property is in the flood plain and Mr. Floyd replied negatively.

Mr. White asked why the southerly row of buildings could not be placed on the northerly portion and center the buildings up on the property and the 49½' variance that was approved in 1995 would not be questioned. Mr. Floyd responded that as you move to the north, because of the lay of the land, it begins to fall off. There is a natural detention pond on the west end of the development.

Mr. Dunham stated that in the absence of a drainage plan and a hardship, he is very concerned about putting the buildings 5' away from the south property line. Mr. Cooper agreed. Mr. Floyd mentioned that he would be able to have Mr. Donnelson, the engineer put together a drainage plan showing the hardship. Mr. Floyd suggested continuing the application for at least 30 days.

Mr. Cooper stated that the hardship the applicant is attempting to show is financial. Mr. Cooper pointed out that the Board does not make its decisions on economic hardships.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **DENY Variance** of the required 75' setback to 5' from an abutting R District to facilitate drainage. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 16**, on the following described property:

N 99.5' of Lot 2 and Lot 1, Cooleys Subdivision, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18359

Action Requested:

Variance to place business sign on lot other than lot of record on which business is located. **SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs; SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CS District Use Conditions for Business Signs; SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CG, CH, CBD, IL, IM and IH Use Conditions for Business Signs; and SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, Use Conditions for Outdoor Advertising Signs, located NE/c E. 91st St. & S. 101st E. Ave.**

Presentation:

The applicant, **John W. Moody**, stated that he is withdrawing the request (Exhibit B-1).

Board Action:

None taken.

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Case No. 18365

Action Requested:

Variance of livability space from 7,000 SF to 6,700 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** Variance of the required front yard from 35' to 24'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** a Variance of the required rear yard from 25' to 24'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** and a Special Exception to permit a 6' fence in the required front yard. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards,** located SE/c E. 30th St. & S. Victor.

Presentation:

The applicant, **Brian L. Freese**, was represented by Charles E. Norman, 2900 Mid-Continent Tower, Tulsa, OK 74103, who submitted a site plan (Exhibit C-1) and stated that the owners of the lot are Steve and Debbie Ganzkow. Mr. Freese is the architect for Mr. and Mrs. Ganzkow. Mr. Norman submitted photos of the lot (Exhibit C-7) and stated that this property was part of a larger tract that was divided into two lots in 1989. At that time, this neighborhood was zoned in the RS-2 district. In 1989 these lots were legal RS-2 lots. Mr. Norman pointed out that RS-2 lots have a lot size requirement of 9,000 square feet and 5,000 square feet of livability space. In 1989, the Board approved an application for the construction of a residence on this property which included a variance of the 30' setback required under the RS-2 to 24' and a site

plan for the residence was submitted at that time. The residence was never constructed at that time. About three months later the Board approved an application for similar variances on the lot immediately to the south which is identified as Dr. Millstone's property. In 1994, this neighborhood was rezoned to an RS-1 district and the lot was made nonconforming in width and slightly nonconforming in size. The new RS-1 requirement is 100' of lot width, 13,500 square feet of lot area and a 35' setback rather than the 30' that was in existence when the Board granted the variances in 1989. Mr. Norman pointed out that one of the requests on this application was for a variance of livability from 7,000 square feet to 6,700 square feet. Mr. Norman feels that there is some question about what livability space is under the Zoning Code. Mr. Norman's interpretation is that livability space is the area of the lot that is not occupied by house or driveways. It is the area available for landscaping, backyards, pools and decks. The RS-2 has a livability space requirement of 5,000 square feet and in the RS-1 the requirement is 7,000 square feet. The proposed site plan provides for 6,700 square feet of livability space. Mr. Norman has had the engineer and the architect calculate the lot area and that is indicated on the site plan as 12,439 square feet. The livability space is 6,712 square feet which represents 53.9% of the lot. Mr. Norman believes that they do not need the variance of the livability space and is withdrawing that request. The total livable area of the home is about 4,300 square feet. The second variance requested is for the required front yard from 25' to 24'. There are two small corners of the building where they project 1' into the required rear yard. Both of the triangles are a little over 3 square feet in area and they result from uneven lot lines. Mr. Norman pointed out that there is a screening wall on the site plan from the front building line and goes to the north approximately 15'. That is a design feature to provide screening to the bedroom wing of the residence. Because of discussions with the next door neighbor, the Ganzkow's are withdrawing the request for the 6' high screening wall in part of the front wall.

Comments and Questions:

Mr. Norman asked Mr. Jackere if he believes that if the livability area is more than 50% of the lot area and this is a lawful nonconforming lot, that they would not need the variance of that requirement. Mr. Jackere replied that the applicant can withdraw the request if he feels it is not needed but he is not prepared to give an opinion at this time.

Mr. White asked Mr. Norman exactly which requests he is withdrawing and Mr. Norman replied that he is withdrawing the request for livability space and the request for the 6' screening wall.

Interested Parties:

Margie Hughes, 2840 S. Victor, stated that she has lived at this location for over 35 years. Ms. Hughes submitted an objection letter from a neighbor (Exhibit C-2) and a petition (Exhibit C-4) signed by neighbors opposing this application. Ms. Hughes stated that she is opposed to this application and she is opposed to any changes in the Zoning Code.

Carol Ashcroft, 1754 E. 30th Street, submitted photos of the surrounding neighborhood (Exhibit C-6). Ms. Ashcroft stated that she is opposed to this application. This house is at the corner of a major intersection of the neighborhood and is out of character with the other older homes in the area. Ms. Ashcroft is concerned about the continual flooding problem of the street and how this proposed development will affect that. She feels that since there will not be much landscaping/grass area it will cause more flooding and drainage problems. Ms. Ashcroft feels that this property could meet the setback requirements of an RS-1 lot.

Larry Mills, stated that he lives across the street from the subject property and has owned his house since 1958. Mr. Mills believes it is wrong to reduce the size and livability of the neighborhood. The applicant needs to abide by the Zoning Code.

Barbara Mills, mentioned that the houses are setback 35' and have large yards. Ms. Mills is worried about the continuity of the new house and the neighborhood.

David R. Cordell, 2126 E. 30th Street, stated that he is appearing as member of the neighborhood and an attorney on behalf of some neighbors who could not be present. Mr. Cordell mentioned that he is a new to the area, only having lived there about a year and a half. In making his purchasing decision he was impressed with the integrity of the neighborhood and the safety for his children to ride bikes in the neighborhood. Mr. Cordell is concerned about what the corner will look like with the height of the structure and the closeness of the house to the street. Mr. Cordell mentioned that the applicant has not presented a necessity for the variances.

Carol Leach, 1742 E. 30th Street, stated that she is concerned about the aesthetics of the neighborhood. Ms. Leach mentioned to the Board that most of the houses in the neighborhood do set back 35' from the street.

Melinda Mercer, 3020 S. Wheeling, mentioned that he lot is adjacent to the back corner of the subject lot. About four years ago, after a large storm their backyard looked like a river with a swift current. Their new wood fence was torn down. She is concerned about all the pavement proposed for the new house and how the water will just run off of it and towards the neighbor houses.

Applicant's Rebuttal:

Mr. Norman stated that a 4' fence is permitted by the Zoning Code and is not an issue before the Board. One of the speakers mentioned that one of the speakers mentioned that she thought the calculations for the floor area were incorrect and this was a smaller lot around 11,000 square feet. If that was the case, then the 6,700 square feet of livability space would be 60 or 65% of the lot area and way more than the 50% that is required under the Code. There is also a provision for nonconforming lots that you only have to have a side yard of 5' and not the ordinary 15' that is required when a side yard is on a street. Mr. Freese designed the side yard to be 15' not 5'. This plan

preserves a better yard on the north side on 30th Street and complies exactly with what was done by this Board with respect to the lot next door. Mr. Norman asked the Board to approve the application under the conditions that were created by the change in zoning from RS-2 to RS-1.

Comments and Questions:

Mr. Dunham asked Mr. Norman if the setback went from 30' to 35' because of the RS-1? Mr. Norman replied affirmatively.

Mr. Cooper referred to a photo submitted and he believes that the interested party are measuring from the curb line and not the lot line and Mr. Norman agreed with Mr. Cooper's comment. Mr. Cooper believes that this is a misunderstanding with the neighbors.

Mr. White mentioned that the Board is in receipt of a letter of support from David Chernicky, 1782 E. 30th.

Mr. Cooper stated that other than the comments about the drainage, he did not hear any specific objections about the drainage.

The Board determined that there was not a problem with the variance of 1'.

Mr. White mentioned that looking at the plans, there were many concerns about the sight line and they are valid concerns because it is an odd shaped intersection and the hill. Mr. White believes that a vehicle should still be able to see around the porte-cochere.

Mr. Dunham pointed out that the people who are to be the most affected by the proposed dwelling are in support of the application.

Mr. Cooper believes that this is a very minor variance request. Mr. Cooper asked Ms. Ashcroft to come to the podium and explain the flag placement on the photos she submitted. Ms. Ashcroft explained that Mr. Freese had put the flags in the position the house will be situated. The Board asked Mr. Freese to come forward and explain the position of the flags. Mr. Brian Freese, 5319 S. Lewis, architect for the Ganzkows, stated that he did not actually place the flags on the lot, the owner did, but they did discuss where the flags should be placed. The flags show the two corners of where they are proposing the 6' wall to be. There was another flag located on the northwest corner of the house.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **WITHDRAW Variance** of livability space from 7,000 SF to 6,700 SF. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** and **Special Exception** to permit a 6' fence in the required front yard. **SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards,** and **APPROVE a Variance** of the required front yard from 35' to 24', per plan submitted **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** a **Variance** of the required rear yard from 25' to 24', per plan submitted **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** finding the hardship to be the configuration of the lot, on the following described property:

Lot 1, Block 17, Forest Hills, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, less and except a part thereof described as beginning at a point on the SEly line thereof 90.10' SEly of the NE/c thereof, thence SWly for 64.52' to the SE/c thereof, thence NWly along the SWly line thereof for 135.38' to the SW/c thereof, thence NEly on the curve to the left having a radius of 301.79' for 83.96', thence SEly and parallel with the SWly line of said Lot 1, for 130.12' to the point of beginning.

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Case No. 18376

Action Requested:

Special Exception to permit a waiver of the dust-free all-weather surface requirement for a period of five years to coincide with a temporary sales operation. **SECTION 1202.C.1. USE UNIT 2—AREA-WIDE SPECIAL EXCEPTION USES; Use Conditions,** located 3212 E. 91st St. S.

Presentation:

The applicant, **Jeff Ogilvie** was not present.

Interested Parties:

None.

Case No. 18376 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE *Special Exception*** to permit a waiver of the dust-free all-weather surface requirement for a period of five years to coincide with a temporary sales operation. **SECTION 1202.C.1. USE UNIT 2—AREA-WIDE SPECIAL EXCEPTION USES; Use Conditions**, 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:

NE, NE, NE, Section 20, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 18373

Action Requested:

Variance of lot width from the required 200' to 182' and 100'. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6;** a Variance of lot area from 2 acres to 1.12 acres and 1.0 acres. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6;** and a Variance of land area from 2.2 acres to 1.328 acres and 1.03 acres in an AG district to permit a lot split. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6;** located 2515 W. 91st St. S.

Presentation:

The applicant, **Irene Cody**, was represented by Darrell Brown, 7204 E. 90th Place, who submitted a site plan (Exhibit D-1) and stated that the character on 91st Street ranges from large tracts of several acres down to .35 acres. The zoning on one side is RS-3 with numerous small tracts. This parcel of land is two acres that was split off of six acres. As far as he knows that split was not an approved split and it was done sometime in the early 1980's. There are two approved splits in the abstract. One was a 12' split on the east side of the two acre tract. Mr. Brown stated that the hardship is that the land is burdened by a 25' easement along the west of the property. That easement is not only utility but also an access easement for the 4.1 acres directly north of the subject tract.

Comments and Questions:

Mr. White asked Staff if there needs to be additional relief from the 30' of frontage on Tract A. Mr. Jackere replied that he believes that the Code requires a minimum 30' of frontage on a dedicated street, so yes, there needs to be additional relief requested.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE Variance** of lot width from the required 200' to 182' and 100'. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6;** a **Variance** of lot area from 2 acres to 1.12 acres and 1.0 acres. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6;** and a **Variance** of land area from 2.2 acres to 1.328 acres and 1.03 acres in an AG district to permit a lot split. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6,** finding the hardship to be the size of the lot and the neighborhood and to **CONTINUE** the application to May 25, to allow time for additional notice for the relief of the 30' street frontage on Tract A and also with the condition that the 30' mutual access easement would continue through Tract A providing access to the property to the north, on the following described property:

W 200' of the N 435.60' of the S 485.60' and the E 12' of the W 212' of the N 435.60' of the S 485.60' of the E/2 of the SE/4 of the SW/4 of Section 15, T-18-N, R-12-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18381

Action Requested:

Variance of the required frontage for CS zoned district from 150' to 86' on an arterial street. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 5,** located 9801 E. 11th Street.

Presentation:

The applicant, **W. P. Smith**, 1007 W. K, Jenks, OK, submitted a site plan (Exhibit E-1) and stated that he represents the property owners Merle Martindale and Clark Brewster. Mr. Smith mentioned that this is a 20 acre tract, 660 x 1320 less the street right of way. The East Tulsa Christian Church has a contract to buy 14.06 acres on the back and their plans are to relocate their church to this site.

Comments and Questions:

Mr. Dunham asked Mr. Smith if his request is to provide access to the back portion of the property and Mr. Smith replied yes.

Mr. Dunham suggested making a condition that the 86' strip be used for access only and that no structure could be build upon it.

Mr. Cooper asked Mr. Smith for a hardship. Mr. Smith mentioned that it would be a hardship on the church if they had to purchase all of the commercial property on the front of the tract. Mr. Dunham stated that if this is only used for access and nothing else he feels that it would be a hardship to require the church to have 150' of frontage for access.

Mr. Dunham asked the applicant if he plans to put a sign on the access? Mr. Smith replied yes. Mr. Dunham suggested putting a condition of approval that no structure be placed on the access except for a sign.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (Dunham, Perkins, White "aye"; Cooper "nays", no "abstentions"; Turnbo "absent") to **APPROVE Variance** of the required frontage for CS zoned district from 150' to 86' on an arterial street. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 5**, per plan; subject to no structures being placed on the 86' with the exception of a sign and that the 86' be used for access; finding the hardship to be the size of the tract in the back and the need for access; on the following described property:

A part of the SW/4 of the SW/4 of Section 6, T-19-N, R-14-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma and more particularly described as follows, to-wit: Beginning at a point 26' N and 1,491.66' W of the SE/c of the SW/4 of said Section 6, T-19-N, R-14-E; thence in a Nly direction 1,294'; thence in a Wly direction 658.80'; thence in a Sly direction 1,294'; thence in an Ely direction parallel to and 26' N of the Section line a distance of 660' to the point and place of beginning. Subject to Easement dated April 29, 1955, granted to the County of Tulsa, State of Oklahoma, covering the following described property: Beginning at a point 26' N and 1,491.66' W of the SE/c of the SW/4 of Section 6, T-19-N, R-14-E, Tulsa County, Oklahoma, thence N a distance of 39' to a point; thence W and parallel to the S line of said Section 6 a distance of 182' to a point; thence N 10' to a point W and parallel to the S line of said Section 6, a distance of 353.92' to a point; thence N a distance of 16' to a point; thence W and parallel to the S line of said Section 6, a distance of 82' to a point; thence S a distance of 16' to a point; thence W and parallel to the S line of said Section 6, a distance of 44.08' to a point; thence S a distance of 49' to a point; thence E and parallel to the S line of said Section 6, a distance of 660' to the point of beginning.

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Case No. 18383

Action Requested:

Special Exception to operate a styling salon in an office building zoned OL. **SECTION 603. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS – Use Unit 13**, located 4625 S. Harvard.

Presentation:

The applicant, **Sam Wheeler**, was represented by Steve Jennings of Coury Properties who submitted a site plan (Exhibit F-1). They are requesting a special exception to relocate and operate an existing salon to an office complex zoned OL. Mr. Jennings mentioned that the salon would occupy 1,716 square feet.

Comments and Questions:

Mr. Dunham asked Mr. Jennings if he has seen the Staff comments on the property and Mr. Jennings replied that he had not seen them. Mr. Jennings listened to Mr. Dunham explain the conditions of Section 604.C. Mr. Jennings explained that the conditions of Section 604.C. relate to an OM district and not an OL district. Section 604.F. relates to a beauty salon in an OL district. Mr. Dunlap said that Mr. Jennings is correct.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to operate a styling salon in an office building zoned OL. **SECTION 603. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS – Use Unit 13**, 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:

Tract 5, Block 3, Villa Grove Heights No. 1 Addition, to the City of Tulsa,
Tulsa County, State of Oklahoma.

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Case No. 18384

Action Requested:

Special Exception to allow outdoor sales of produce in a CS zoned district from May 15 through August 15 for three years (from 1999 through 2001). **SECTION 1202.B. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Included Uses – Use Unit 2**, located 3205 S. Garnett.

Presentation:

The applicant, **Tommie Boyd Long**, 9161 E. 102nd Place South, submitted a site plan (Exhibit G-1) and stated that he is asking for a permit to sell produce for the summer.

Comments and Questions:

Mr. White asked the applicant if he understands that the special exception cannot exceed 179 days per year and Mr. Long understood that condition.

Interested Parties:

Perry Partney, 9070 E. 29th Street, stated that he is the owner of the office building that is directly east of the proposed produce stand. Mr. Partney explained to the Board that there are only two entrances to this building. If two cars are parked on each side of 32nd Street, there is barely room to get one car between the two. Mr. Partney said that he is not against the sale of the produce but he thinks that there would be better utilization of the facilities next to Garnett by putting the tent and storage building next to the existing building that housed the Total gas station. Mr. Partney submitted photos of the area (Exhibit G-2). He does not want to see a grass area turned into a gravel parking lot.

Applicant's Rebuttal:

Mr. Long stated that the tent will sit on the concrete on the south side. There is no storage building and there will be no gravel on the lot. The tent is 20' x 30'.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE Special Exception** to allow outdoor sales of produce in a CS zoned district from May 15 through August 15 for three years (from 1999 through 2001). **SECTION 1202.B. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Included Uses – 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, subject to the grassy area on the lot remaining and for a period not to exceed 179 days per year, on the following described property:

Lot 1, Block 2, Amended plat of Briarglen Center, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18385

Action Requested:

Special Exception to allow outdoor sales of produce in a CS zoned district from May 15 through August 15 for three years (from 1999 through 2001). **SECTION 1202.B. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Included Uses – Use Unit 2**, located 6570 E. 71st Street.

Presentation:

The applicant, **Tommie Boyd Long**, submitted a site plan (Exhibit H-1) and stated that there was a little confusion about the property. There is another man who is selling plants at this location right now until June. In June Mr. Long hopes to take over and start his produce business.

Comments and Questions:

The Board mentioned their concern about the current use of the property, the proposed use of the property and the previous approval for a car lot on the property. Mr. Jackere suggested placing condition on the approval that this use be the only use or a use in conjunction with or a second use with a time specification.

Mr. Dunham asked Mr. Long what is his understanding of the situation, will the tenant be there through the summer? Mr. Long replied that the other tenant will be there until June 18. Mr. Jackere asked the applicant if he intends to start selling produce now or wait until June 18? Mr. Long said that he will wait until June 18 to start selling produce.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** a **Special Exception** to allow outdoor sales of produce in a CS zoned district for three years (from 1999 through 2001). **SECTION 1202.B. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Included Uses – 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, beginning on June 19, 1999, and beginning on May 15, 2000 and 2001; subject to it being the sole use permitted on this property for 179 days per year for three years, on the following described property:

Lot 1, Block 2, Kirkdale Commercial Center, City of Tulsa, Tulsa County,
State of Oklahoma.

*****.

Case No. 18386

Action Requested:

Special Exception reducing the number of required off-street parking spaces from 24 to 13 to permit a restaurant to continue to operate. **SECTION 1407.C. PARKING, LOADING AND SCREENING NONCONFORMINITIES – Use Unit 12**, located 1517 S. Main St.

Comments and Questions:

Mr. Dunlap stated that there has been a timely request for a continuance submitted (Exhibit I-1).

Interested Parties:

None.

Board Action:

On **MOTION** of **COOPER**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 18386 to the Meeting of May 11, 1999.

*****.

Case No. 18387

Action Requested:

Variance from the internal collector service street access requirement. **SECTION 804. ACCESS REQUIREMENTS – Use Unit 16**, located E. 76th St. S. & Mingo Road.

Presentation:

The applicant, **Neal Harton**, was represented by Ted Sack of Sack and Associates, Inc., 111 South Elgin, Tulsa, OK, who submitted a site plan (Exhibit J-1). Mr. Sack stated that this property is the site of a mini-storage. The area is in a flood plain and that is the reason for the variance that they are asking for. There is no need for a collector street in this area. Mr. Sack mentioned that the owners of the property are dedicating over half of the property to the City for flood plain.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE Variance** from the internal collector service street access requirement. **SECTION 804. ACCESS REQUIREMENTS – Use Unit 16**, finding the hardship to be the existing flood plain on the property, on the following described property:

A tract of land that is part of Government Lot 3, also known as the NW/4 of the SW/4 of Section 7, T-18-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma, said tract of land being more particularly described as follows, to wit: Beginning at a point that is the NW/c of said Government Lot 3; thence S

Case No. 18387 (continued)

89°40'54" E along the Nly line of said Government Lot 3 for 822.00'; thence S 00°09'54" W and parallel with the Ely line of Government Lot 3 for 320.59'; thence N 87°55'49" W for 724.05'; thence N 56°52'23" W for 116.40' to a point on the Wly line of said Section 7; thence due N along said Wly line for 235.40' to the point of beginning.

Case No. 18388

Action Requested:

Special Exception to allow a convenience store (Use Unit 13) in an IL zoned district.

SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 13, located SE/c E. 46th St. N. & N. Mingo Road.

Presentation:

The applicant, **Elias Ghazal**, 9315 E. 97th Street, submitted a site plan (Exhibit K-1).

Interested Parties:

None.

Comments and Questions:

Mr. Dunham asked the applicant if he is familiar with the parking requirement on this property? Mr. Ghazal replied no.

Mr. Dunlap pointed out that there is a 75' setback requirement from the east property line abutting the AG District. Mr. Ghazal said that he believes that he his building is setback 75'. Mr. White pointed out that the building is a nonconforming structure and should not have to meet the 75' setback.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE Special Exception** to allow Special Exception to allow a convenience store (Use Unit 13) in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 13**, 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:

W 198' N/2 NW, NW, NW, less N 60' & W 40' thereof, Section 18, T-20-N, R-14-E.

..***.***.

Case No. 18389

Action Requested:

Amend a required tie contract (BOA 13897, 1/09/86) to release Lots 11 and 12, Block 1, LeClaire Addition, and Lots 9 and 11, Block 3, Henry Addition; a Variance of the required parking spaces for a church from 34 spaces to 28 spaces. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street parking and Loading Requirements – Use Unit 5** and a Special Exception to allow church and related uses. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, located SW and SE/c E. Young Street & North Norfolk.

Presentation:

The applicant, **R. E. Walker**, 2235 N. Norfolk, submitted a site plan (Exhibit L-1) and stated that he is the pastor of Pilgrim Rest Baptist Church. Mr. Walker mentioned that the church owns Lots 11 and 12 of LeClaire and they also own Lots 14, 15, 16, 17 and 10 of Block 3. An agreement was made in 1986 and by error Lots 9 and 11 were included in the legal description of the church and those lots are not owned by the church. The request before the Board is to have that language removed from the tie agreement. Mr. Walker stated to the Board that the City is in the process of buying Lot 10 from the church.

Comments and Questions:

Mr. White asked Mr. Walker about Lots 11 and 12. Mr. Walker stated that the church has always owned those lots and they use it to play games on such as volleyball and for Easter egg hunts. Mr. Walker explained to the Board that basically they will be switching Lot 10 (church owns) for Lot 18 (City owns). The church will put parking on Lot 18.

Mr. White asked Mr. Walker if he also needs Lot 10 released from the tie agreement and he replied that he believes that there is another process that they have to go through to get that lot released. Mr. Jackere asked Mr. Walker if Lot 10 was originally included in the tie agreement and Mr. Walker replied yes. Mr. Jackere asked if he is asking for release of Lot 10 and Mr. Walker replied yes. Mr. Dunham stated that Lot 10 is not part of the request. Mr. Walker responded that in talking with Staff this morning, it is his understanding that since Lots 10, 14, 15, 16, 17 and 18 are in the legal description they would have to go through another process with the City to get that release. Mr. Jackere pointed out that Lot 18 is advertised to allow church use on. Mr. Jackere stated that the actual release of Lot 10 does not required specific relief from this Board. If the Board will approve his application for church use on the lots that he has requested and the variance of the parking, all the Board needs to recognize is that Lot 10 is not needed for parking and is not needed for church purposes. The agreement will be between the church and the City therefor, the City will have to go in and amend that tie agreement.

Mr. Dunlap stated that the church is showing additional parking on Lot 18, there would be no parking allowed in the required front yard. If they need to park in the required front yard, they would need that additional relief.

Mr. Dunham began to make a Motion and was interrupted by an interest party wishing to speak. Mr. Dunham withdrew his partial Motion.

Interested Parties:

Bernice Alexander, 2124 N. Owasso, stated that she represents the 2100 N. Owasso Block Club and adjacent neighbors. Ms. Alexander mentioned that she received a letter concerning this action. Ms. Alexander is confused about what is being asked for and about the properties that are in the tie agreement. Ms. Alexander pointed out that

she is concerned about land use in the area. Ms. Alexander asked the Board to describe what "related uses" mean.

Mr. Cooper asked Staff to read off some of the related uses that go along with church uses. Mr. Dunlap stated that related uses are the uses that are customarily incidental and subordinate to the principal use or structure.

Amaly Floyd, 1034 E. Young Place, stated that the application is not clear. Mr. Floyd is concerned about the traffic on the streets and about air quality in the neighborhood.

Applicant's Rebuttal:

Mr. Walker stated that there will be no new buildings going up. The request is clear, they are only talking about property that is legally owned by the church. The City has started constructing nice buildings on Owasso and the church would be hindering that new construction by not switching lots with the City. The switch would also be helpful to the church by allowing them to add new parking.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **APPROVE** a request to **Amend a required tie contract** (BOA 13897, 1/09/86) to release Lots 11 and 12, Block 1, LeClaire Addition, and Lots 9 and 11, Block 3, Henry Addition; a **Variance** of the required parking spaces for a church from 34 spaces to 28 spaces, finding that it meets the requirements of Section 1607.C. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street parking and Loading Requirements – Use Unit 5** and a **Special Exception** to allow church and related uses on Lots 14-18, Block 3, Henry Addition, 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, **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, on the following described property:

Case No. 18389 (continued)

Lots 11 and 12, Block 1, LeClaire Addition; Lots 9 and 11, Block 3, Henry Addition; and Lots 10, 14, 15, 16, 17 and 18, Block 3, Henry Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Mr. Cooper out at 4:10 p.m.

Case No. 18390

Action Requested:

Variance of the maximum height from 35' to 38' to permit construction of a new house in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 2480 E. 27th Place.

Presentation:

The applicant, **Trent A. Gudgel**, was represented by Pete Stamper, 124 E. 4th Street, submitted a site plan (Exhibit M-1) stated that they are asking for an addition 3' of height for the roof of the owner's house and it is more of a conformance than a variance. The property in question is located within the Woody Crest Addition. This addition is hilly, fully developed and is fully of mature trees. The topography and the trees create the necessity of the variance. The property is almost an acre and slopes from the back to the front towards 27th Street about 11'. The size of the house is not large for the area but will have about 5,000 square feet. Mr. Stamper pointed out that the need for the height on the roof is aesthetic. To preserve the appearance and architectural balance of the house, the roof height and size has to be proportionate to the area of the house. Mr. Stamper reminded the Board that they approved a 10' height variance (Case No. 18132) on a property three blocks west of the subject property. To have avoided the need for the variance and permit the proper roof alignment on the house, the topography of the lot would have to have been significantly changed and they would have had to remove several mature trees which would have detracted from the appearance of the house and the neighborhood. The roof of the house is hard to see from the street and is dwarfed by the trees. The removal of the trees and changing of the topography would be a hardship for not only the property owners but also the City and the neighborhood. Mr. Stamper submitted photos of the house and the area (Exhibit M-3). This is a simple variance and Mr. Stamper asked for the Board's approval of the application.

Interested Parties:

Ted A. Sack, Sack and Associates, Inc., 111 South Elgin, stated that he has been asked by Mr. Warren and Mr. Hawkins, who are residents to the Buddrus property, to check into the height of the residence being constructed on 27th Place. Mr. Sack went to the neighborhood and shot various homes in the area and could find no homes in the area that exceeded the 35' building height. Mr. Sack mentioned to the Board that they were able to shoot an elevation of the home in question because the roof is

already in place. They found the roof at the entryway to be 40' above finished floor. Another section of the roof was found to be 39½' above finished floor. Mr. Sack explained that they were able to do this without getting on the property and it was also done from two different directions and the elevations did tie. It appears that the intention was to build something bigger than the 35' and they are here after the fact for a variance that is in violation of the Zoning Code. The topography of the lot is correct, it does slope towards the street and the slope is significant. Instead of sloping the house or putting it into the hill they have set the house on top and let the rear elevation dictate. The finished floor of the house is about 10' above the grade of the street in front. The way the Code reads is that the actual floor elevation or building height is from an average ground elevation. From the grading plans submitted to the permit office, the ground in front is 3' lower than the finished floor in the front and is ½' in the rear. The actual height is around 42' and well exceeds the 35' and exceeds the 38' that they have asked for. Mr. Sack does not believe that they have shown a hardship. Mr. Dunham asked how height is calculated. Mr. Ackerman stated that as far as plan review, they calculate it by what is shown on the plans and they try to show it by ground elevation. If they are not able to determine that, they ask the applicant to rely to them what the height of the structure will be and that is included in the permit. The definition of building height does take the average of the ground elevation and measure at the building wall.

Charles Hawkins, 2451 E. 28th Street, stated that he owns the property directly behind and abutting the subject property. They are concerned about the house "towering" over others in the neighborhood. Mr. Hawkins mentioned that they were notified of this hearing after the roof had been constructed. Mr. Hawkins asked the Board to deny the application

William K. Warren, Jr., 2445 E. 28th Street, stated that his property adjoins the Buddrus property to the west. Mr. Warren mentioned that his family has owned this property for over 64 years. Mr. Warren strongly opposes this variance. He feels that his privacy has been impacted by their home. Mr. Warren spoke with the builder and yes, their building had been permitted for 35' but they later changed their plans. They should have been before the Board before they continued construction of the house. Mr. Warren believes that the pitch of the roof can be lowered to meet the Code requirement of 35'. Mr. Warren submitted photos of his residence, the residence of Mr. Hawkins and the subject house under construction (Exhibit M-4). Mr. Warren stated that the previously mentioned Board case was for a home that abuts the Tulsa Tennis Club and the owners had an agreement with the Tulsa Tennis Club. Mr. Warren believes that the home needs to fit the requirements of the Code.

Applicant's Rebuttal:

Mr. Stamper stated that the house does not comply with the letter of the Zoning Code or they wouldn't be here. There is not a matter that comes before the Board in which the matter in question complies with the Zoning Code or there would not be a need for a variance. Initially, they believed that the house would be designed and landscaped to comply with the 35' requirement. When construction started, it was determined that the depth of the cut necessary on the back of the house, to get to the 35' requirement, would create more of a problem. Cutting that much would have created a drainage problem. Mr. Stamper pointed out that above the entry is a spire that goes above the roof line. Spires, towers, and chimneys are an exception to the roof height limit. The height of the tower is immaterial. Mr. Stamper mentioned that in the photos it is obvious that the landscaping and dirt work is not finished up against the house because the rock, brick and siding are not are. It is impossible to measure the soil adjacent to the property line to determine its average height or the height of the roof until all of the dirt work is done and final elevations are in place. There was no effort to build in violation or disregard of the restrictions put on the building permit. As soon as it was determine that the 35' could not be met this application was filed. Mr. Stamper stated that this house will not be visible from the street, will not tower over the neighbors or otherwise be in complete conformity with the harmony of the neighborhood and with the approval of the variance it will then be in technical compliance with the Zoning Code.

Comments and Questions:

Mr. Dunham asked if the Board is to approve the 38' variance, where will the 38' be measured from? Mr. Jackere replied from the average ground elevation prior to construction. You don't wait until the building is finished and the landscaping is finished to measure the height of the building.

Mr. White asked Mr. Sack if the spire and chimneys are the high spots that were measured? Mr. Sack replied that they shot two places. One is the pointed roof area that is over the entry and that is the 40'. They also shot another roof height at 39½' from the finished floor of the house.

Mr. Jackere mentioned to the Board that the only thing they should be considering is whether or not to approve the variance and that gets into a question of whether a hardship has been shown. The interpretation of where the 38' should be measured from is not something the Board can determine right now.

Mr. White stated that trees have never been accepted as a hardship before on a residential structure. The only time where a tree height has been a factor is on sign variances where the visibility of the sign is an issue. If the Board is inclined to approve the application it would not solve the perceived loss of privacy, which the Board cannot deal with.

Mr. Dunham asked for someone to describe the hardship. Mr. White stated that he is having trouble with that point. There is an obvious economic hardship but the Board cannot consider that.

Ms. Perkins stated that she believes a person should stick to the Code when constructing a building or house. Mr. Ackerman redlined it and told them it was not in compliance and they went ahead. Ms. Perkins pointed out that the drawing that was submitted today is showing a height of 39' which is 1' higher than what they are asking for.

Mr. White made reference to the other Board application a few blocks away. The Board did approve the roof height but they also denied a wall height on the same property. There were no protestants on the height of the previous application but there are protestants from all of the contiguous land owners on the subject property. Mr. Dunham said that Staff comments reflect that they have no problem with the variance if a hardship can demonstrated according to the Zoning Code.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **DENY** a **Variance** of the maximum height from 35' to 38' to permit construction of a new house in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, finding the lack of a hardship, on the following described property:

Lot 4, Block 3, Woody Crest Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 18391

Action Requested:

Variance of required 5' side yard to 3'8" and 1'6" to permit an addition to an existing encroaching dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance of yard abutting a public street from 85' to 71' to permit construction of a second story on an existing encroaching dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 1257 E. 29th Street.

Presentation:

The applicant, **Michele Falkenstein**, 3319 S. Yorktown, submitted a site plan (Exhibit N-1) and stated that she is the architect for the property owners. They are proposing to add a second story to the house. Essentially they are continuing the eave height out the back to permit the addition. There is an existing enclosed sun porch at the

Case No. 18391 (continued)

corner on Peoria and 29th. They are going to put a second story on top of the existing enclosed area.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE Variance** of required 5' side yard to 3'8" and 1'6" to permit an addition to an existing encroaching dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a **Variance** of yard abutting a public street from 85' to 71' to permit construction of a second story on an existing encroaching dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, finding that the Variances meet the requirements of Section 1607.C., per plan submitted, on the following described property:

Lot 30, Block 20, Sunset Terrace, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 18392

Action Requested:

Special Exception to permit auto tune-up as a home occupation in an RS-2 District; **SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS – Use Unit 14**; a Variance of the required all-weather surface to permit gravel parking area; **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; a Variance to permit two dwelling units per lot of record on a 2.3 acre tract; **Section 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD**; a Special Exception to permit a double-wide manufactured home in an RS-2 District; **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**; and a Special Exception of the one year time limit for a mobile home to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, located 442 S. 127th E. Ave.

Presentation:

The applicant, **Youssifou H. Issa**, 442 S. 127th E. Ave., submitted a site plan (Exhibit O-1) and stated that he would like to repair automobiles in the existing shop behind his house. Mr. Issa pointed out that he lives in a CS zoned area and his property is going to be very clean and quiet. Mr. Issa mentioned that there will be no paint booths in his shop or hazardous materials. The repairs will be light. There are other businesses in the area such as a typewriter repair business, RV storage, astrologer, construction contractor and someone that sells eggs. Mr. Issa stated that he has owned the property for two years and there is a vacant house on the other side of him.

Comments and Questions:

Mr. Cooper asked the applicant what type of equipment will he be using and what kind of noise will be created by that equipment? Mr. Issa replied that there will be no noise from the equipment. The only noise will be from a regular car. He will be operating on small cars.

Mr. Issa mentioned that he has applied for a manufactured home to be located on the property. It will be placed on solid concrete. Mr. Jackere asked who will live in the manufactured home and Mr. Issa replied that his children will and he will live in the house.

Interested Parties:

Mike Buchert, 542 S. 127th E. Ave., stated that he lives four houses down from this property and they are zoned residential. All of the homes are single-family residential and many people have lived there for long periods of time. They are objecting to everything that is being requested at this location. They are concerned about the property being used for rental property in the future. The applicant has been running a tune-up business in the area and has already caused noise problems in the neighborhood. Mr. Buchert believes that there is no hardship for the variances requested. He submitted a petition signed by 25 people in the neighborhood (Exhibit O-2).

Teresa Buchert, 542 S. 127th E. Ave., stated that she has lived in the neighborhood for 45 years. She opposes manufactured homes being introduced into their neighborhood. Ms. Buchert stated that her father owned and ran a plumbing company for 25 years out of his home. There is a construction person who lives next door to them and has run his company for 10 years. Ms. Buchert mentioned that she has hens and sells eggs from her house. She is the only one in the neighborhood who has retail come to her door but mainly it is neighbors who buy eggs from her. The roads in this neighborhood are extremely small and narrow and are not designed for two vehicles. There is an intersection at 7th and 127th E. Ave. and cannot be turned by anything larger than an automobile. The large trucks and anything with a vehicle in tow cannot make the turn. There is only one exit in and out. Ms. Buchert pointed out that you cannot access the applicant's property with a car in tow without backing onto the property across the street. The neighborhood believes that this will be detrimental for them.

Rick Hunting, 433 S. 127th E. Ave., stated that he is opposed to a tune-up shop in the neighborhood. This is a small residential neighborhood and he does not see the need for a business in the area.

John Miller, 554 S. 127th E. Ave., stated that auto shops are dirty and junky. Mr. Miller is opposed to the application.

John Roy, 9018 E. 38th, stated that he represents the East Tulsa Mingo Valley Association who is opposed to the application. If the Board approves the auto repair tune-up Mr. Roy suggests requiring an all-weather surface on the area. If the Board approves the manufactured home on the premises, Mr. Roy suggests an all weather surface drive to the manufactured home.

Applicant's Rebuttal:

Mr. Issa mentioned to the Board that there are a lot of business in the neighborhood. The auto repair business will not be a 24 hour a day business. Mr. Issa works for American Airlines and will be the repair business for extra income. The shop will be inside a building and all work will be done inside the building. Mr. Issa mentioned that there is a mobile home park about three blocks from his residence.

Comments and Questions:

Mr. Cooper asked the applicant what the requested hours of operation will be. Mr. Issa replied that he worked the afternoon shift at American Airlines. He likes to work a few hours in the morning before he goes to work at 2:00 p.m. Between 9:00 a.m. and 1:00 p.m., three days a week. Mr. Cooper asked Mr. Issa if the cars will be contained in a garage? Mr. Issa replied yes, there will be no cars sitting out in the yard. Mr. White stated that he can appreciate the gentleman trying to supplement his income but he thinks that the business is not fitting with the neighborhood. Mr. White feels that this neighborhood is established and the presence of a manufactured home would be a detriment.

Mr. Cooper stated that he is not in favor of the manufactured home or the waiver of the hard surface requirement. He is open to conditions on the auto repair business.

Mr. Ballentine submitted photos of the property (Exhibit O-3) and stated to the Board that automobile repair does not work in a residential neighborhood—there is an enforcement problem.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White "aye"; no "nays", no "abstentions"; Turnbo "absent") to **DENY Special Exception** to permit auto tune-up as a home occupation in an RS-2 District; **SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS – Use Unit 14; a Variance** of the required all-weather surface to permit gravel parking area; **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; a Variance** to permit two dwelling units per lot of record on a 2.3 acre tract; **section 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; a Special Exception** to permit a double-wide manufactured home in an RS-2 District; **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; and a Special Exception** of the one year time limit for a mobile home to permanent; **SECTION**

404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, on the following described property:

Lot 12, Plainview Heights, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 18393

Action Requested:

Special Exception to permit a communications tower for multiple users to accommodate collocation which cannot be supported on a monopole structure. The tower will be a single, lattice work tower. **SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4**, located 2109 S. 109th E. Ave.

Presentation:

The applicant, **John W. Moody**, 7146 S. Canton, submitted a site plan (Exhibit P-1), an aerial photo (Exhibit P-3) and stated that he represents Hemphill Corporation which primarily engages in the development of multi-carrier tower sites. Mr. Moody submitted an information packet about Hemphill Corporation (Exhibit P-4). This location is own by Mr. Hemphill and it is zoned CS. It was determined that this was an ideal site for the location of a co-location tower for as many as ten uses because of its proximity to the highway system. Under the Tulsa Zoning Code, they could build the tower at the height proposed, at this location if they used a monopole construction. The only reason for this request is to be able to use the lattice work design on the tower. The Tulsa Zoning Code was amended a few years ago because of the proliferation of towers in the community. The tower will be located in the farthest northeast corner possible. The Code strongly encourages co-location in order to minimize the number of towers. A monopole structure at this location would not be adequate to handle the ten users. In addition, they have submitted a landscape plan for the site. Mr. Moody stated that landscaping is required if the tower is within 300' of a residential lot. The proposed tower is not located within 300' of an RS district so they are not required to provide landscaping. However, they are voluntarily landscaping the base of the tower and the supporting structures. They believe that this tower will be a great asset to the City of Tulsa.

Comments and Questions:

Mr. White asked Mr. Moody how large is the base of the tower. Mr. Moody relied that the base of the tower is 37'9" wide and the tract that the tower is located in is 100' x 100'. The tower narrows down to 4' at the top.

Interested Parties:

John Roy, 9018 E. 38th Street, stated that he represents the East Tulsa Mingo Valley Association, who is opposed to a 300' tower in this location. This location is surrounded by one story buildings which makes the tower not blend in at all. The tower will be very visible from the neighborhood to the north across 21st Street. Mr. Roy submitted a protest letter from a neighbor (Exhibit P-2).

Applicant's Rebuttal:

Mr. Moody stated that they can build a 300' tower at this location by right. The only question before the Board is if they can build a lattice design instead of a monopole structure. The monopole design would not allow them to accommodate up to ten users.

Comments and Questions:

Mr. Dunham asked if it is better to have ten towers in the air or one with ten sites on it? The Board agreed that it would be better to have co-location.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE Special Exception** to permit a communications tower for multiple users to accommodate collocation which cannot be supported on a monopole structure. The tower will be a single, lattice work tower. **SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4**, per plan and per landscape plan, 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 2, Block 1, First City Bank Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 18394

Action Requested:

Special Exception for use of land in RS-2 for a public park including the following development: roadways, parking, sidewalks, shelters, restrooms, playgrounds, picnic tables, benches, ornamental horticultural displays, Tulsa Garden Center, visitor center, gift shop, arboretum, green houses, pole barn, storage bins and maintenance employees offices. **SECTION 402. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2**, located E. 21st St. & Peoria.

Comments and Questions:

Mr. Dunlap mentioned to the Board that there has been a request for a continuance on this case. The case should be continued to May 25, 1999.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Cooper, Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 18394 to the meeting of May 25, 1999.

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Case No. 18395

Action Requested:

Special Exception to allow a painting contractor business in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15**, located 3227 E. Woodrow Street.

Presentation:

The applicant, **V. Curtis Smith**, was represented by Howard Clark, 1226 South Hudson, who submitted a site plan (Exhibit Q-1).

Comments and Questions:

Mr. Dunham pointed out that there is a requirement for a screening fence along the west and south property lines.

Interested Parties:

David Mason, 3223 E. Woodrow Street, mentioned to the Board that he has lived at this location for over 12 years. Mr. Mason mentioned that there are several other businesses in the area and he is concerned about the storage of the paint materials, the hours of operation and the traffic flow.

Applicant's Rebuttal:

Mr. Smith stated that they are a corporation and will not be working all hours of the night. They do start at 6:30 a.m. and are usually done at 5:00 or 6:00 p.m., five days a week. Sometimes they do work on Saturdays and the hours are usually 7:00 a.m. to noon. Most of the storage of materials is done onsite. They do not do any of the work at the office. Mr. Mason stated that they have 20 people who work for them and they have about 20 vehicles but they are not parked on the lot. They pull into the lot, pick up their supplies for the day and leave, then return in the evening to drop off the supplies. There is a QuikTrip next door that will generate more traffic than this painting business.

Case No. 18395 (continued)

Comments and Questions:

Mr. Dunham asked where the screening fence is located. Mr. Mason mentioned that there is a screening fence along the west side of the property that crosses the front and ends on the east side of the property. Mr. White pointed out that the existing fence is chain link and they would have to put up a solid wood fence.

Mr. Jackere pointed out that the screening fence was waived in BOA Case No. 10929.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE Special Exception** to allow a painting contractor business in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15**, 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:

W 75' of Lot 2, Block 3, Becky Gales Addition and part of B 1-4, Marion Terrace, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18396

Action Requested:

Special Exception to allow a church in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5** and a Variance of the required spaces to 0 parking spaces. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements**, located SW/c E. 1st St. & Detroit.

Presentation:


The applicant, **P.W. Sager**, 1156 E. 56th Street, stated that they have a 14,000 square foot single-story brick building on the corner of 1st & Detroit. The property is in a small pocket of IL zoning that has been there for a long period of time. They were contacted by a church who needed a place to worship. It was determined that the IL zoning was appropriate for a church only through special exception or to rezone it to CBD. Mr. Sager stated that they have filed for CBD zoning with the Planning Commission and the application will be heard on May 26.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper, Turnbo "absent") to **APPROVE *Special Exception*** to allow a church in an IL zoned district, 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. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5** and a **Variance** of the required spaces to 0 parking spaces; finding that it meets the requirements of Section 1607.C.,. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements**, on the following described property:

All of Lot 1, Block 87, Original Town, now City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 5:35 p.m.

Date approved: May 25, 1999

Chair