

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 774
Tuesday, June 8, 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
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Cooper
Dunham, Vice Chair
Perkins
Turnbo
White, Chair

Arnold
Beach
Stump

Prather, Legal Dept.

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday, June 3, 1999, at 2:55 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 1:01 p.m.

MINUTES:

On **MOTION** of **PERKINS**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** the Minutes of May 11 1999 (No. 772).

UNFINISHED BUSINESS

Case No. 18406

Action Requested:

Variance of the allowable 750 square feet for an accessory building to 2,200 square feet. **SECTION 402.B. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6**, located 7171 South Jackson.

Presentation:

The applicant, **Tina McClanahan**, 7171 South Jackson, submitted a site plan (Exhibit A-1) and stated that she would like to construct a pole barn in her backyard to store her trailer and large truck.

Interested Parties:

Mr. White mentioned that there is one letter of protest in the file (Exhibit A-2). The letter implies that there is storage of old cars on the property. Ms. McClanahan mentioned that they are storing some old cars in the backyard. Ms. McClanahan mentioned that she and her husband fix up the cars, take them to car shows and sell them at the shows. Some of the vehicles are show cars.

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 Variance** of the allowable 750 square feet for an accessory building to 2,200 square feet, finding that it meets the requirements of Section 1607.C. **SECTION 402.B. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6**, per plan, subject to there being no commercial activity conducted on the property and that the three small buildings shown on the plan will be removed, on the following described property:

A tract of land in NW/4 of the NE/4 of Section II, T-18-N, R-12-E, Tulsa County, beginning 1,046.48' S of NE/c of NW/4 of NE/4, thence 140.52' S, thence W 330' thence N 140.52" thence E 330' to the point of beginning.

Case No. 18410

Action Requested:

Special Exception to permit a beer bar within 150' of an R district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a.** Variance of the required parking from 14 to 6 spaces. **SECTION 1212a.D. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Off-Street Parking and Loading Requirements;** a Variance of the spacing from another adult entertainment establishment. **SECTION 1212a.C.3.c. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions,** located 1137 North Sheridan Road.

Comments and Questions:

Mr. Beach mentioned to the Board that this case was before the Board on May 25 and there was some discussion about the status of the neighboring bar from which this one is seeking a variance of the spacing requirement. The only thing Staff could find is that there have been no prior Board of Adjustment approvals allowing the other bar. A Certificate of Occupancy was issued on December 7, 1989 for the other bar. Mr. Beach mentioned that Staff is not aware of the bar's current status. This application was made for a variance of the spacing and the Board should assume that there is a bar there and act accordingly.

Mr. Dunham asked Mr. Beach if the spacing requirement was a condition when the second bar was opened? Mr. Beach replied that the bar that is the subject of this application was purchased by the applicant and had been in operation for some time. The applicant then discovered that he needed a Certificate of Occupancy and when applying for the Certificate of Occupancy permit the zoning deficiencies were identified. Mr. Stump stated that the spacing requirement was in effect in 1989 when the second bar (House of Blue Lights) opened.

Presentation:

The applicant, **Jessee L. Blevins**, 6924 East Pine, stated that he has done some research on the other bar. The City issued a temporary Certificate of Occupancy dated December 7, 1989. It appears that the other bar was operating under a temporary permit.

Comments and Questions:

Mr. White asked Mr. Blevins when The Odyssey (formerly House of Blue Lights) opened? Mr. Blevins replied that The Odyssey opened approximately two months ago, was opened for one weekend and then they were gone. The City has no license or permit on record for The Odyssey. The previous owners of House of Blue Lights moved their business about five months ago to East Pine Street and the Tax Commission has records of that transfer.

Interested Parties:

Howell Joyner, 7015 East Haskell Street, stated that he was not made aware of the changes to this bar. Mr. Joyner pointed out to the Board that the area has had an influx of bar activity between I-244 and Pine on Sheridan. Mr. Joyner mentioned that he is not opposed to the actual bar but he is opposed to the overflow of criminal activities that come out of the bar facilities and into the neighborhood.

Mr. Dunham asked Mr. Joyner if he is aware of any negative activities that stem from this particular bar? Mr. Joyner replied that he personally has not observed anything from that bar. With it being in such close proximity to many other clubs, it is hard to tell which bar the people are coming from.

Councilor Roscoe Turner, District 3, stated that he is opposed to any more bars going into this area. Mr. Turner suggested a tie agreement with the neighbors on parking.

Comments and Questions:

Mr. Beach mentioned that Chapter 14 discusses adult entertainment establishments and when they are allowed and when they are not. In this case, it has been determined that the applicant does not need relief from the spacing requirement from another bar. The reason is that the other bar is not there and it did not come into compliance on its parking requirement within a year of adoption of this parking requirement. In that case, the other bar would be illegal if it reopens. Mr. Beach stated that the applicant does not need relief from that requirement.

Ms. Perkins asked the applicant how many employees his bar has and Mr. Blevins replied that he has four employees, his wife, his sister, nephew and himself. Mr. Blevins explained to the Board that most of their customers are retirees and most of them walk to the bar in the daytime. They do not have much business at night, the bar usually closes at 11:00 p.m. or midnight.

Mr. Cooper asked Mr. Blevins if he would be willing to limit the hours of his bar to 11:00 p.m. or midnight? Mr. Blevins replied affirmatively, but he would like to stay open later, if business persists, on the weekend.

Applicant's Rebuttal:

Mr. Blevins mentioned that there have been three bars open at the intersection of Haskell and Sheridan in the last three months.

Comments and Questions:

Mr. Dunham asked the applicant if he has explored the parking next door to see if he can get into a parking agreement with the owners? Mr. Blevins replied that there is some space in the back of his bar that could be used for parking. It would take some time to develop it. He believes that they could get an additional five parking spaces behind the building.

Mr. Dunham mentioned that this bar has been there for over 18 years and there have been no complaints from the neighborhood or this case would have been before the Board before now. The only interested party at the last meeting was the person who would be most affected by the bar and she was in support of the application. Mr. Dunham drove by the property again yesterday afternoon and there were only three cars in the parking lot at that time. He does not believe that they need 14 parking spaces.

Ms. Turnbo stated that she definitely has a problem with the parking situation. If Mr. Blevins has four employees, they will take up four parking spaces, leaving only two spaces for patrons. Ms. Turnbo would be supportive of the application if the applicant would agree to have 11 parking spaces on the lot.

Case No. 18410 (continued)

Mr. Dunham asked the Board if anyone had a problem with the spacing from an R District. Mr. Cooper replied that he had a small problem with it because there are so many bars located in this general area. Mr. Dunham asked the Board if they would be willing to approve the variance of the parking from 14 spaces to 11 spaces and allowing the applicant six months to meet the requirement. Mr. White agreed with the suggestion. Mr. Cooper feels that this bar may be injurious to the neighborhood.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-1-0 (Dunham, Perkins, Turnbo, White "aye"; Cooper "nays", no "abstentions"; no "absent") to **APPROVE *Special Exception*** to permit a beer bar within 150' of an R 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 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a. Variance** of required parking from 14 to 11 spaces, subject to the spaces being legal size and they must be installed within six months; finding the hardship to be the size of the lot. **SECTION 1212a.D. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Off-Street Parking and Loading Requirements; and WITHDRAW a Variance** of spacing from another adult entertainment establishment. **SECTION 1212a.C.3.c. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions**, finding that the relief is not needed, on the following described property:

N 50' of S 180' of W 150' of Lot 3, Block 1, Aviation view Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18418

Action Requested:

Variance of the required side yard from 5' to 4'4". **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICT – Use Unit 6;** a Variance of the required rear yard from 20' to 11'6". **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** and a Variance of setback from a street from the required 20' to 15'2½", all to permit joining existing structures. **SECTION 403.5 BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located 1401 South Richmond Avenue.

Presentation:

The applicant, **Kenneth Craft**, 1401 South Richmond Avenue, submitted a site plan (Exhibit B-1) and stated that the house is existing and was constructed in the 1940's. The setbacks were different in the 40's than they are now.

Case No. 18418 (continued)

Interested Parties:

None.

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 Variance** of the required side yard from 5' to 4'4". **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICT – Use Unit 6;** a **Variance** of the required rear yard from 20' to 11'6". **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** and a **Variance** of setback from a street from the required 20' to 15'2½", all to permit joining existing structures. **SECTION 403.5 BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, per plan submitted; finding the hardship to be the size of the lot and the existing house, on the following described property:

Lot 18, Block 11, Adamson heights Addition, City of Tulsa, Tulsa County,
State of Oklahoma.

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Case No. 18419

Action Requested:

Special Exception to permit a church in an IL zoned district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5;** a Variance to permit required parking on lot other than lot on which church is located. **SECTION 1205. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES OR IN THE ALTERNATIVE** a Variance of the required number of parking spaces. **SECTION 1301. GENERAL REQUIREMENTS**, located SW/c & SE/c S. 91st E. Ave. & BA Expressway.

Comments and Questions:

Mr. Beach informed the Board that Mr. Moody would not be able to attend the hearing today and asked for a continuance (Exhibit C-1). Mr. Moody has spoken with all of the protestants and all of them agreed to a continuance.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18419 to the meeting of June 22, 1999.

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Case No. 18420

Action Requested:

Special Exception of the required 110% setback from an R zoned property from 110' to 10' on the south and 110' to 5' on the west. **SECTION 1204.C.3.g. SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions**, located 1402 South Memorial.

Presentation:

The applicant, **Joyce Cobb**, was represented by **George Crane**, 1512 South Clear Springs, Mustang, OK, who submitted a site plan (Exhibit D-1) and stated that he works for Fossil Creek Land Company who is representing Sprint Spectrum in the Tulsa Area. Mr. Crane explained that the purpose of the request is to construct a cellular telephone tower to fill a massive hole in coverage that Sprint has between I-244 to the north, Highway 169 to the east and I-44 to the southeast. They contacted this church and they are willing to locate the tower on their property. The problem is that the church is zoned residential. The closest residence is about 199' away and that is the pastor's house. The next closest house is about 300' away. The tower Sprint is proposing to construct will be 100' tall.

Interested Parties:

None.

Comments and Questions:

Mr. Dunham mentioned that the circumstances on this application are a little bit different than what you would normally find.

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** of the required 110% setback from an R zoned property from 110' to 10' on the south and 110' to 5' on the west, 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 1204.C.3.g. SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions**, per plan submitted, on the following described property:

PARENT AREA: N/2 of N/2 of SE/4 of SE/4 of NE/4 Section 11, T-19-N, R-13-E of the IBM except the W 30' for a street, Tulsa County, Oklahoma AND **LEASE AREA:** A tract of land lying in and being a part of the W 415.50' of the S 31' of Lot 1, Block 1, of Keim Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows: commencing at the NE/c of the NE/4 of Section 11, T-19-N, R-13-E of the IBM; thence S 01°14'42" E along the E line of said NE/4, a distance of 1950.09' to the N line of said S 31'; thence S 88°35'59" W along said N line, a distance of 439.74'; thence S 01°19'26" E a distance of 3.70' to the point of beginning; thence continuing S

Case No. 18420 (continued)

01°19'26" E a distance of 16.51'; thence S 88°43'57" W a distance of 40.70'; thence N 01°19'26" W a distance of 20.00'; thence N 88°43'57" E a distance of 20.00'; S 01°19'26" E a distance of 3.70' thence N 88°43'57" E a distance of 20.70' to the point of beginning AND **ACCESS AREA**: A 20' wide easement for ingress, egress and utility purposes crossing a part of the N/2 of the N/2 of the SE/4 of the SE/4 of the NE/4 of Section 11, T-19-N, R-13-E of the IBM, and crossing a part of the W 415.50' of the S 31' of Lot 1, Block 1, of Keim Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, the centerline being more particularly described as follows: Commencing at the NE/c of the NE/4 of said Section; thence S 01°14'42" E along the E line of said NE/4 a distance of 1990.09' to the point of beginning; thence S 88°35'59" W a distance of 470.39'; thence N 01°19'26" W a distance of 20.00' to an ending point on the S line of the above described lease area, said point being 10.00' S 88°43'57" W of the SE/c of said lease area.

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NEW APPLICATIONS

Case No. 18422

Action Requested:

Variance of the 20' setback requirement for a garage down to 15.5'. **SECTION 403.A.5. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, R, RT and RM Districts – Use Unit 6, located 8210 South 72nd East Avenue.**

Presentation:

The applicant, **Ted Magsamen**, 8517 East 95th Place, submitted a site plan (Exhibit E-1) and stated that he works for Brumble Construction. There are two homebuyers that have designed homes to sit on the two subject properties. Mr. Magsamen explained to them about the 20' setback. Mr. Magsamen mentioned to the Board that both houses will have three car garages and someone could park three cars abreast instead of lengthwise in the driveway.

Comments and Questions:

Mr. Dunham asked the applicant what the hardship is? Mr. Magsamen explained that when they originally began talking to different people and was told the setback was 15', as shown on the plat. Later, they discovered there was a 20' setback as far as the garage is concerned. The lots are 75' wide. If there is a 5' side yard setback and a 20' setback on the driveway side of the house, that leaves 50' for the house and if you take 20' out for a garage, that leaves a 30' wide house.

Mr. Dunham asked if the plat shows 15' or 20'? Mr. Magsamen replied that it shows 15.5'. Mr. Dunham then asked Staff how the plat got approved at 15'? Mr. Stump explained that the exterior side yard is required to have a 15' building setback, except where you have a garage that accesses from that side, then it is 20' to have a long enough driveway to park one car (in depth). Mr. Stump stated that 15.5' is not enough length to park a car in the driveway. Typically a person will park a foot or two away from the garage door and an average size car is in the 15' to 16' range. The car will be in the right-of-way and is not actually on their lot.

Mr. Dunham inquired as to why the garage could not be accessed from the 72nd East Avenue side? Mr. Magsamen explained that the house would then only be 35' wide. The house faces east and the garage access is from the north.

Ms. Perkins believes that the applicant's house is just too big for the lot.

Interested Parties:

Lindsay Perkins, stated that he is the developer of The Crescent. Mr. Perkins stated that if the house were flipped and the front door was facing north, the more restrictive requirement, 25' would be in place and it would not work. Mr. Stump stated to the Board that the 15' requirement applies to a side yard. One side fronting a street on a corner lot has to be at least 25' back, the other side has to be at least 15' back. On the 15' side, if a garage access that side, the garage has to be setback 20'. Mr. Perkins stated that the lots are expensive and people are building rather expensive houses on the lots. When you have a corner lot, you have a difficult time trying to fit the house on the property. Mr. Perkins is more concerned about aesthetics and the look of the neighborhood.

Comments and Questions:

Mr. Cooper asked Mr. Perkins how far the house to the west sets back from 82nd Place South. Mr. Dunham responded that there is no house there and it would have to setback at least 25'.

Mr. White pointed out that this is a brand new subdivision. Mr. White stated that he believes this is a self-imposed hardship. Ms. Turnbo agreed and believes that the houses are just too big for the lots. Mr. White mentioned that if the Board is inclined to approve this application he can foresee every other corner lot coming before the Board for a variance.

Mr. Cooper believes that a corner lot is a hardship. There is something peculiar about the property.

Mr. Beach pointed out to the Board that when the developer designed the subdivision he made the corner lots wider in order to accommodate the required additional setback. It was made wider by an additional 11 feet.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-2-0 (Perkins, Turnbo, White "aye"; Cooper, Dunham "nays", no "abstentions"; no "absent") to **DENY Variance** of the 20' setback requirement for a garage down to 15.5'. **SECTION 403.A.5. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, R, RT and RM Districts – Use Unit 6**, finding that the hardship is self-imposed, on the following described property:

Lot 1, Block 14, The Crescent, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18423

Action Requested:

Variance of the required front yard from 30' to 19.4' to permit a carport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 2205 South Delaware Place.

Presentation:

The applicant, **Jim Morefield**, 421 Green Valley Road, Inola, OK, submitted a site plan (Exhibit F-1) and mentioned that he works for Bicks Unlimited, Contracting, and he is representing Judy Ann Wortman, 2205 South Delaware Place. They are requesting a variance in order to erect a carport on her property. The reason for the carport is that her son is a musician and they would like to turn the garage into a place for him to practice. The carport would allow her car to stay outside and still be protected.

Comments and Questions:

Mr. White pointed out that the house has a 25' side yard, and asked if there is room on the side to place the carport? Mr. Morefield replied that it had not been considered due to the existing driveway.

Mr. Stump pointed out that there is 28' on the side (north) and all they would need is 5' for building setback.

Interested Parties:

Maureen Knutsun, 2202 South Delaware Place, which is directly across the street from the subject property. Ms. Knutsun is opposed to the carport. There are no carports located in this neighborhood. Ms. Knutsun mentioned that the current owners have already taken out the garage doors so it now looks like a room with a single door.

Applicant's Rebuttal:

Mr. Morefield believes that there are other carports in the neighborhood. The carport would be designed and colored to match the house.

Comments and Questions:

Mr. White asked the applicant to explain his hardship to the Board. Mr. Morefield replied that it would be a hardship to the owner not to have her automobiles covered.

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 **DENY Variance** of the required front yard from 30' to 19.4' to permit a carport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, on the following described property:

The W 165' of Lot 1, Block 3, and the S/2 of that portion of vacated 22nd Street lying adjacent to the W 165' of Lot 1, Block 3, Bryn-Mawr, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18424

Action Requested:

Variance of the required parking spaces from 3 to 2 spaces for a new addition of two one-bedroom units. **SECTION 1407.A. PARKING, LOADING AND SCREENING NONCONFORMITIES**, and a Variance of the design standards for parking spaces from the required 8.5' and 18' to allow 8.3' with turning radius of 34'. **SECTION 1303.A. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**, located 1614 South Boston Avenue.

Presentation:

The applicant, **Bill Caylor**, 1224 East 19th Street, Tulsa, OK, submitted a site plan (Exhibit G-1) and stated that he would like to build two small one-bedroom units which will be added to the existing four units. Mr. Caylor explained that the building is on a 50' wide lot. There are four existing parking spaces and he proposes to add two new parking spaces to fill the needs of the one-bedroom apartments. Because the lot is 50' wide it will only allow the parking width to be 8'4" per car instead of the required 8'6" per car. Each parking space will be one inch shy on each side. Access to the parking is through the alley so the turning radius is partially in the alley.

Comments and Questions:

Mr. Dunham stated that this area is very short on parking spaces. Mr. Dunham mentioned that the Board is in receipt of an objection letter (Exhibit G-2).

Interested Parties:

Mark McCafferty, 1615 South Baltimore, stated that he owns the property directly west of the subject property. Mr. McCafferty mentioned that he also owns a 50' wide lot and at the most he can only park five cars. The applicant is not taking into consideration the trash dumpster which takes up room in the alley. Mr. McCafferty believes that adding two more units will be too much constructed on the lot.

Applicant's Rebuttal:

Mr. Caylor mentioned that the property was originally and still is zoned CH. Mr. Caylor does not believe that the parking requirement should be upheld in the CH district.

Comments and Questions:

Ms. Turnbo asked the applicant how long he has owned the property? Mr. Caylor replied that he has owned this piece of land since 1978. Ms. Turnbo asked Staff when the change to the Zoning Code was made that required parking in the CH District? Mr. Stump replied approximately 1985.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White "aye"; no "nays", no "abstentions"; no "absent") to **DENY Variance** of the required parking spaces from 3 to 2 spaces for a new addition of two one-bedroom units. **SECTION 1407.A. PARKING, LOADING AND SCREENING NONCONFORMITIES** and a **Variance** of the design standards for parking spaces from the required 8.5' and 18' to allow 8.3' with turning radius of 34'. **SECTION 1303.A. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** on the following described property:

Lot 9, Block 1, Cody and Holloway Addition, City of Tulsa, Tulsa County,
State of Oklahoma.

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Case No. 18425

Action Requested:

Variance to permit a 523.86 square foot sign to exceed the allowed 500 square feet to add an additional sign to Flying J Travel Plaza ground sign. **SECTION 1221. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING** – Use Unit 23, located Admiral Place at 129th East Avenue.

Presentation:

The applicant, **Tulsa Neon, Inc.**, was represented by Bill Fair, 2012 West Air, Bethany, OK, stated that he works with Flying J, Travel Plaza. Mr. Fair submitted a sign plan (Exhibit H-1) and mentioned that he is asking for 5% of the maximum allowed square footage for a ground sign. They were before the Board in March and

they thought they had everything taken care of. When they submitted the drawing, they discovered that they were over the square footage. Mr. Fair explained that the hardship is that they need the advertisement on the street, customers will not see it from the highway because of the trees. Mr. Fair asked the Board to approve the application.

Comments and Questions:

Mr. White asked the applicant if it would be possible to reduce the sign area by 5%? Mr. Fair responded that it would be possible but the Country Market sign need approximately 80' to display the sign. If they reduce that further, the advertising value of the sign would be reduced.

Ms. Turnbo explained to the applicant that if he reduce the "Welcome" portion of the sign by 5% he would be in compliance. Mr. Fair responded that the "Welcome" portion of the sign is an electronic message center with changing copy. The size of that portion of the sign is set by the manufacturer and the size of the components inside.

Mr. Dunham does not believe that there is a hardship.

Interested Parties:

None.

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 **DENY Variance** to permit a 523.86 square foot sign to exceed the allowed 500 square feet to add an additional sign to Flying J Travel Plaza ground sign. **SECTION 1221. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING – Use Unit 23**, finding a lack of a hardship, on the following described property:

A tract of land that is part of the SW/4 of Section 33, T-20-N, R-14-E, of the IBM, 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 SW/c of the SW/4 of said Section 33; thence due N along the Wly line of Section 33 for 422.64'; thence due E for 40.00'; thence due N for 97.52'; thence due E for 70.00'; thence due N for 351.83' to a point on the SWly right-of-way line of I-244; thence SEly along said right-of-way line on a curve to the right with a radius of 3134.05' and a chord bearing of S 55°20'04" E for 103.20'; thence S 54°23'28" E along said right-of-way line for 923.66'; thence S 52°50'15" E for 368.64'; thence S 52°15'48" E for 73.75' to a point on the Sly line of the SW/4 of said Section 33; thence S 89°39'41" W along said Sly line for 1297.95' to the point of beginning.

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Case No. 18426

Action Requested:

Special Exception to allow a mobile home in a RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 6** and a Special Exception to extend the one-year time limit indefinitely. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS,** located 1913 East Marshall Street.

Presentation:

The applicant, **E. Sue Richardson**, was represented by Jim Reynolds, 920 South Elm, Erick, Oklahoma. Mr. Reynolds submitted a site plan (Exhibit I-1) and mentioned that this property belongs to his mother. His mother moved a trailer onto this property during the 1970's. In the 1970's she had the proper licensing and permitting to have the trailer on the property. In the early 1980's she built an additional bedroom onto the trailer and had all of the proper permitting. Up until 1985, every year she received the proper trailer license. At that point she was told that it was no longer necessary to get the permit because the room addition was a permanent fixture to the house. Ms. Richardson received notice this year that she was in violation of the Code.

Comments and Questions:

Mr. Cooper asked Staff if because there is a permanent addition to the trailer, does this change their assessment of it being a mobile home? Mr. Stump replied no. The Code was amended in 1970 to its current form. There was a limitation of one year on mobile homes. Mr. Stump believes that Ms. Richardson did not receive a variance to make it permanent at that time nor did they remove it after one year. It went all those years without a complaint and someone has now complained about the mobile home.

Interested Parties:

J.W. Smith, 2140 South 77th East Avenue, stated that he owns property in the same area as the subject property. Mr. Smith does not want to see any mobile homes within the City limits.

Mr. Dunham asked Mr. Smith when he acquired his property. Mr. Smith replied that he purchased his property about ten years ago. The mobile home was there at that time.

Juan Padilla, 1947 East Marshall, stated that he has no problem with the mobile home.

Applicant's Rebuttal:

Mr. Reynolds mentioned that his mother is 78 years old and he is moving back to this area to help take care of her. He admitted that the residence does need some repair and he is going to be around to do that now.

Comments and Questions:

Ms. Turnbo asked Staff why this mobile home came before the Board since it has been located at this address since 1980. Mr. Beach stated that he has a copy of the complaint and it does not identify who filed it or what the complaint was. It does say that this is a violation consisting of erecting, moving, adding to or structurally altering any building or structure or to use or change the use of any building or land or permit the aforementioned actions without obtaining a zoning clearance permit. This violation requires a special exception. Mr. Stump stated that it also notes that the original approval expired in November of 1985.

Mr. Dunham stated that the mobile home has been at this location for 19 years and has had no complaints. Ms. Turnbo mentioned that there are other mobile homes in the area. Ms. Turnbo feels that this would be a very different situation if someone were bringing in a new mobile home rather than one that has been there for almost 20 years with no complaint.

Mr. Cooper stated that it would be his preference to keep some sort of time limit on the mobile home and not allow it on a permanent basis. Mr. White concurred.

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 mobile home in a RM-2 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 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 6** and a ***Special Exception*** to extend the one-year time limit for a period of five years, 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. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, per plan, on the following described property:

Lot 16, Block 4, Berry-Hart Addition, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18427

Action Requested:

Variance of the required lot area from 9,000 square feet to 8,247 square feet for RS-2 lots to obtain a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located SW/c East 36th Street & South Terwilliger.

Presentation:

The applicant, **Bryan C. McCracken**, was represented by **Jeff Levinson**, 35 East 18th Street. Mr. Levinson submitted a site plan (Exhibit J-1) and mentioned that his client has contracted to purchase all of Lot 7, Block 5, which is a large, irregularly shaped tract. Technically, the application before the Board today is to split the 180' x 92' tract. To the south of that is an irregular shaped parcel which is also part of Lot 7, Block 5. What is before the Board today is the product of a prior, pre-approved lot split which created the 180' x 92' tract. The total land area for Lot 7, Block 5 is over the minimum amount and the lot area would be well over 30,000. If the area was divided into three lots they would not need to come before the Board because they would have the required lot area. The problem is when the client did the prior lot split, due to the irregular shape on the south part of the boundary, there was only 57.92' which fronted Terwilliger. In RS-2 zoning, a lot needs a 75' average lot width. The tract to the south ended up with 13,000 square feet because of the 75' frontage on the street. Mr. Levinson explained that the hardship is the strange shaped lot. As far as the compatibility, in this area there are quite a few lots that are preexisting that are less than 9,000 square feet. Most of the lots that border this one were a product of lot splits. Across the street, in Kennebunkport, is a unique development in which most of the lots are less than 9,000 square feet. Mr. Levinson asked the Board to approve the application.

Interested Parties:

Bill Moran, 3607 South Yorktown Place, stated that his house is immediately adjacent to the double lot that is the subject of this application. Mr. Moran objects to the lot split because they do not want the existing house removed and they do not want to have the property divided. Mr. Moran submitted a petition (Exhibit J-4) with 66 signatures of opposition and several objection letters (Exhibit J-3).

Francis Schlater, III, stated that he lives immediately across the street from this development. Mr. Schlater submitted six more signatures of opposition to be attached to the petition. Mr. Schlater explained to the Board that he and the Morans canvassed the neighborhood for signatures of opposition to this application and submitted an exhibit showing other homes and properties in the area (Exhibit J-5). He believes that the sizes of the three properties are incorrectly represented. The average lot size in this area is half of an acre. There is heavy traffic on 36th Street and also a drainage problem in the neighborhood. The three houses will only add to those problems. Mr. Schlater feels that adding three houses on this property will greatly change the

Case No. 18427 (continued)

characteristics of the neighborhood. Mr. Schlater questioned the owner of the properties and his only reason for splitting the property is economic.

Neal Tomlins, 3613 South Yorktown Place, pointed out that his property is directly behind and to the west of the existing structure. Mr. Tomlins explained to the Board that this is one lot with one house on it and the applicant wants to split it into three lots and put three houses on it. If this application is approved it will greatly change the character of the neighborhood. Mr. Tomlins pointed out that the applicant has the property under contract, he does not own the property yet. Making money off of a parcel of property is not a hardship, especially in an established neighborhood.

Alan Madewell, 3649 South Terwilliger, stated that he is a licensed architect and lives in the area. Mr. Madewell submitted a map (Exhibit J-2) of the area and the proposed lot split. If the lot is split it will create three nonconforming lots. The proposed lots will not conform to anything in the area. Mr. Madewell is opposed to the application.

Applicant's Rebuttal:

Mr. Levinson mentioned to the Board that there is a house on 3645 South Yorktown Place that has less than 9,000 square feet. Except for the irregular shape of the lot, there would be enough gross footage and lot area to have three lots without coming before the Board. The reason they are before the Board today is because the lot is not rectangular in shape. The density and area is consistent with the current RS-2 zoning. Mr. Levinson asked the Board to approve this application.

Comments and Questions:

Ms. Perkins asked the applicant what his hardship is. Mr. Levinson responded that there are circumstances that are peculiar to the land, being the irregular shape of the tract is the hardship. If the southern boundary were more level, there would be no need to come before the Board, they would be able to do that by right in an RS-2 zoned district.

Mr. White feels that it is a self-imposed hardship and that the split will be injurious to the neighborhood.

Board Action:

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White "aye"; no "nays", no "abstentions"; no "absent") to **DENY Variance** of the required lot area from 9,000 square feet to 8,247 square feet for RS-2 lots to obtain a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, on the following described property:

The W 89.565' of the N 92.08' of Lot 7, Block 5, Highland Park Estates and the E 89.565' of the N 92.08' of Lot 7, Block 5, Highland Park Estates, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18428

Action Requested:

Variance to allow off-street parking on lot other than lot containing the use. **SECTION 1301.D. GENERAL REQUIREMENTS – Use Unit 5;** and a Variance of required parking spaces from 67 to 18 to permit a new school and gymnasium. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements,** located 7001 South Union Avenue.

Presentation:

The applicant, **Max Bass**, 518 West C Street, Jenks, OK, submitted a site plan (K-1) and stated that he is the assistant pastor of New Life Pentecostal Church. Mr. Bass mentioned that the church owns the subject property and also owns property adjacent to it at the east. The church owns approximately 10 acres on the corner of South 71st Street and Union Avenue. They would like to utilize the southern portion of the property for recreation purposes. The church presently has enough parking to accommodate the school. Mr. Bass pointed out that the church and school would not be used simultaneously. The school building would be utilized during the day Monday through Friday and the church would be used Sunday during the day and Thursday nights.

Comments and Questions:

Mr. Dunham asked Mr. Bass if there would be any problem tying the two lots together? Mr. Bass replied that the church already has that agreement and he submitted it to the Board (Exhibit K-2).

Interested Parties:

None.

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 Variance** to allow off-street parking on lot other than lot containing the use. **SECTION 1301.D. GENERAL REQUIREMENTS – Use Unit 5;** and a **Variance** of required parking spaces from 67 to 18 to permit a new school and gymnasium. **SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements,** finding that the variances meet the requirements of Section 1607.C., subject to a tie agreement, per plan submitted, on the following described property:

Lot 1, Block 1, New Life Christian School, City of Tulsa, Tulsa County,
State of Oklahoma.

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Case No. 18429

Action Requested:

Special Exception to allow a mini-storage in a CS zoned district, located NE/c E. 41st Street and US Highway 169.

Presentation:

The applicant, **Mary Womble**, submitted a site plan (Exhibit L-1). Ms. Womble mentioned that her client has a hotel on the front part of the property and he would like to add a mini-storage to another part of the property.

Interested Parties:

None.

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 mini-storage in a CS 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, on the following described property:

Lot 3, Block 1, Ravenwood Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18430

Action Requested:

Variance of the required front setback from Joplin from 35' to 27' for a new single-family dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 8831 South Joplin.

Presentation:

The applicant, **John M. Folks**, was represented by **Jeff Dunn**, 2828 East 51st Street, Suite 400, Tulsa, OK 74105, stated that he is the attorney for the applicant and submitted a packet of information (Exhibit M-1) to the Board. Mr. Dunn explained that his clients purchased the lot in question in October of last year. They hired a builder, Masterpiece Builders, who staked out the footprint of the home they would like to build. Mistakenly, they missed the 35' setback line by approximately 11'. The front of the property encroaches approximately 8'. Some excavation work has commenced, due to the fact that the builder and homeowners were wrong about the setback.

Case No. 18430 (continued)

Comments and Questions:

Mr. Dunham explained that Staff is concerned that the house does not extend closer to Joplin than 27'. Mr. Dunn assured the Board that the house would not extend any further to Joplin.

Mr. Beach clarified that the setback is 27' from the property line and not the actual street. Mr. Dunn understood and agreed to the setback.

Mr. Dunn submitted a Certificate of Amendment to the Plat.

Interested Parties:

None.

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 Variance** of the required front setback from Joplin from 35' to 27' for a new single-family dwelling. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, finding the hardship to be the topography of the lot, on the following described property:

Lot 6, Block 3, Woodhill Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18432

Action Requested:

Variance of the 20' side yard requirement for garages, down to 15.5' on a corner lot in an RS-3 district. **SECTION 403.A.5. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6**, located 7122 E. 81st Place South.

Presentation:

The applicant, **Ted Magsamen**, was present and submitted a site plan (Exhibit N-1).

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-2-0 (Perkins, Turnbo, White "aye"; Cooper, Dunham "nays", no "abstentions"; "absent") to **DENY Variance** of the 20' side yard requirement for garages, down to 15.5' on a corner lot in an RS-3 district. **SECTION 403.A.5. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6**, finding that the hardship is self-imposed, on the following described property:

Case No. 18432 (continued)

Lot 4, Block 17, The Crescent, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18433

Action Requested:

Special Exception for Use Unit 4 in an R District. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 4;** Variance of the structure height from 35' to 100'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** and a Variance from 110% setback from any adjoining lot line of a residential zoned lot to 101' west and 90' north. **SECTION 1204. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES,** located 920 South New Haven.

Presentation:

The applicant, **Joyce Cobb**, was represented by **George Crane**, Fossil Creek Land Company, 1512 South Clear Springs Road, Mustang, OK, submitted a site plan (Exhibit O-1) and stated that their company represents Sprint Spectrum. Mr. Crane explained that they needed a tower south of I-244 and north of the Broken Arrow Expressway. The initial search area was based solely on The University of Tulsa campus. They approached the university about several locations and they were turned down. Mr. Crane explained that they extended the search to 15th Street and Harvard but found that everything in the area is commercial and is immediately abutted by residential.

Comments and Questions:

Mr. White asked Staff about the Use Unit 4 – does it need to be restricted any? Mr. Stump replied that the Board might want to allow only the communications tower.

Mr. Beach pointed out to the Board that there are 11 items that are required by the Code to have a finding on and that the finding appear in the record of this case.

Interested Parties:

Steven Farmer, 903 South New Haven Avenue, directly across the street from the property in question. Mr. Farmer explained to the Board that he bought his home from the church in 1983. Mr. Farmer believes that the location of the tower on the church property will hurt property values in the area. Directly adjacent to the church on church property is the church school with a playground. The tower will be directly adjacent to the playground. Mr. Farmer asked the Board to deny the application.

Dennis Birney, 911 South Louisville, stated that the tower will be even with his property line. Mr. Birney's property is adjacent to where the tower will be located and he does not want to walk out to his backyard and see the tower. Mr. Birney explained to the Board that he was approached by the church several years ago about donating the back portion of his property for a tax deduction to help the church build a "park like setting" and to expand their playground and school area. Mr. Birney explained that there is a drainage area running across the property and that is why the tower is being located so close to the neighborhood.

Comments and Questions:

Mr. Beach mentioned to the Board that the 110% setback requirement can be adjusted by the Board by a Special Exception.

Applicant's Rebuttal:

Mr. Crane explained to the Board that the reason Sprint pursues church property to locate towers on is because they are community based organizations and they like to give them the additional money for their coffers. The site is leased rather than purchased and the lease will be for 25 years. Sprint has no interest in purchasing the property. Mr. Crane submitted some photos of the area with a tower drawn in to show the location of the proposed tower (Exhibit O-2). Mr. Crane suggested to the Board that they could make the "top hat" configuration of the tower a "flush mount" against the tower so it does not stick out. The tower is not a microwave tower, it is a digital PCS system. Mr. Crane explained that there are some sewer lines that run through the property and they cannot place the tower on those sewer lines. He believes that there are enough trees on the property to hide the tower from most angles. There will not be any building located on the premises. The equipment area is about the size of a double-wide refrigerator. Sprint will put up a privacy fence, with three strands of barbed wire around the top, around the premises of the tower.

Comments and Questions:

Mr. Beach asked the applicant what the height of the proposed tower is? Mr. Crane answered 100'.

Mr. Beach asked the applicant to describe the design of the tower. Mr. Crane explained that on a typical cellular tower, there is a large three sided "top hat". They can use what is called a "flush mount", which is an antennae that protrudes from the tower about 6". Mr. Crane explained that flush mount is also described as being low profile, flat panel antennae. This is a monopole type tower which will be galvanized gray.

There was much discussion at the bench as to the exact location of the tower and the setbacks.

Mr. Beach asked Mr. Crane what the total number and size of antennae proposed and the ability of the tower to accommodate co-location. Mr. Crane explained that Sprint builds every tower with the capabilities to hold another carrier. It is usually 10' of vertical distance between the carriers. Mr. Beach asked Mr. Crane if the topography and the vegetative cover allows for good coverage at that height? Mr. Crane replied affirmatively.

Mr. Crane explained to the Board that they approached The University of Tulsa to put a tower on their football stadium. Southwestern Bell already has a location on their stadium. They were turned down because of future expansion plans for the stadium and other areas of the university. Mr. Crane submitted a letter of denial from The University of Tulsa (Exhibit O-3) to locate a tower on their property. Mr. Dunham asked where the Southwestern Bell tower is located, is it actually on the stadium or on the ground near the stadium? Mr. Crane replied that it is on the stadium.

Mr. Crane stated that the church felt this was the best location for the tower because it is an unused portion of the property.

Ms. Perkins asked Mr. Crane if the tower could be moved to the other side of the sewer easement? Mr. Crane stated that the area on the other side of the sewer easement is a parking lot.

Ms. Perkins believes that Sprint needs to figure out a way to get closer to the church instead of abutting the neighborhood.

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*** for Use Unit 4 in an R District subject to the use being restricted to a monopole tower and that the monopole tower have a low profile, flat panel antennae; after considering each of the following factors: Height of the proposed tower; Proximity of the tower to residential structures, residential district boundaries and existing towers; Nature of uses on adjacent and nearby properties; Surrounding topography; Surrounding tree coverage and foliage; Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; The total number and size of antennas proposed and the ability of the tower to accommodate collocation; Architectural design of utility buildings and accessory structures to blend with surrounding environment; Proposed ingress and egress; The need of the applicant for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area; The size of the tract and the most likely future development as indicated by the Comprehensive Plan, planned infrastructure, topography and other physical facts.; 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 – Use Unit 4;** *Variance* of the structure height from 35' to 100', finding that it meets the requirements of Section 1607.C. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS;** and **DENY** a *Special Exception* from 110% setback from any adjoining lot line of a residential zoned lot to 101' west and 90' north. **SECTION 1204. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES,** on the following described property:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 1, Elmdale Second Addition, and a portion of Lot 4, Block 1, Elmdale Addition as follows: Beginning at a point on the N boundary line of said Lot 4, 155' E of the NW/c of said Lot 4, thence E 103.6' to the NE/c of Lot 4, thence SEly along the E boundary line of Lot 4 to the SE/c of Lot 4, thence W along the S boundary of Lot 4, 111.31' to a point; thence N 60' to the point of beginning and a portion of Lot 5, Block 1, Elmdale Addition, described as follows: Beginning at a point on the N boundary line of said Lot 5, 155' E of the NW/c of said Lot 5; thence E 111.31' to the NE/c of Lot 5; thence SEly along the E boundary of Lot 5 to the SE/c of Lot 5; thence W along the S boundary of Lot 5, 119.02' to a point; thence N 60' to the point of beginning; and a portion of Lot 6, Block 1, Elmdale Addition, described as follows: Beginning at a point on the N boundary line of said Lot 6, 155' E of the NW/c of said Lot 6; thence E 119.02' to the NE/c of Lot 6; thence SEly along the E boundary of Lot 6 to the SE/c of Lot 6; thence W along the S boundary of Lot 6, 126.73' to a point; thence N 60' to the point of beginning; and a portion of Lot 7, Block 1, Elmdale Addition, described as follows: Beginning at a point on the N boundary line of said Lot 7, 155' E of the NW/c of said Lot 7; thence E 126.73' to the NE/c of Lot 7; thence SEly along the E boundary of Lot 7 to the SE/c of Lot 7; thence W along the S boundary of Lot 7, 134.44' to a point; thence N 60' to the point of beginning all located in the City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18434

Action Requested:

Special Exception to permit a ready mix concrete plant for the manufacture of cement utilizing sand and gravel at the source of supply for utilization off the premises on a 1.55 acre tract within a previously approved sand and gravel mining operation. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24,** located Between Delaware & the Arkansas River South of East 106th Street South.

Comments and Questions:

Mr. Beach informed the Board that he received a written request for a continuance on this case yesterday, from an interested party. The request is not considered a timely request. The interested party is not within the 300' notice area but they had received information about the case within the last few days. The Board decided to hear the case since the request was not timely and there were several interested parties present.

Presentation:

The applicant, **Charles E. Norman**, submitted a site plan (Exhibit P-1) and stated that he represents Mid-Continent Concrete Company which is applying for a Special Exception to permit a ready mix concrete plant in an AG District. Mr. Norman explained that ready mix concrete plant is classified in Use Unit 24 and is permitted only in the IM District by exception and the IH District by right. It is not permitted in the IL Zoning District. Therefore, it is extremely difficult for the industry to find locations that are centrally located. The actual application is for a portion of land that is on the banks of the Arkansas River and is 700' from Delaware and consists of 1½ acres. The mining and processing of sand and gravel is also in the same Use Unit 24 and was approved by the Board in 1988 and has operated as a dredging operation since that time. There have been many dredging operations along the banks of the Arkansas River over the years but most of them are no longer in operation because of the run off from the Keystone Dam. It has become an acceptable practice among concrete companies to locate concrete operations an acceptable hauling distance from their job sites. Mr. Norman mentioned that Staff has voiced a concern about additional traffic on Delaware as a result of the operation. The number of trips per day may increase in the immediate area but the number of trips per day in the entire area served will not because you will eliminate trucks coming from Bixby that come down to this area to serve the Jenks market. Some trips will also be eliminate from Bixby to the 121st area and further to the east. Mr. Norman submitted photos (Exhibit P-3) to show distances of the plant site. On photograph number 4, the concrete plant was located in the proposed location inadvertently and is presently there. Mr. Norman mentioned that he visited the site and the dredging operation produces a much higher noise level than the ready mix concrete operation. Because the plant is in operation and because of the paving of Riverside Drive from 91st to 81st, 231 cubic yards (30 to 32 loads per day) of concrete were delivered from this site last week. The operators of this site indicate that they doubt they will ever exceed 50 trips per day from the site. Mr. Norman explained to the Board that by operating the ready mix concrete plant in this location they could reduce the number of sand trucks leaving the site to take sand to other concrete plants. Mr. Norman pointed out that he has searched for sites for Mid-Continent Concrete Co. in Jenks, which has virtually no medium or light industrial zoning. South of Skelly Drive all the way to Garnett has no area that is zoned in a way to allow the Board to consider either by exception or right, the location of a ready mix concrete plant. The only other use of the west side of Delaware between 111th Street and 121st Street is the Philcrest Tennis Club. Development on the east side is sparse.

Mr. Norman asked the Board to approve the application to allow a ready mix concrete plant.

Comments and Questions:

Mr. Cooper asked Mr. Norman what his requested hours of operation are for the facility. Mr. Norman replied that typically the operation is dawn to dusk. In the winter, it will be less than that. In the summer, there are some critical temperatures that prohibit the delivery of ready mix concrete. Mr. Norman explained that sometimes in the summer the plant will open at 4:00 a.m. and begin delivery of the concrete before the temperatures rises above the critical level for that mix. Most of those jobs are on public projects where there is an increasing trend to work dual shifts and try to complete the project in a shorter amount of time. Mr. Norman indicated that his client would be willing to limit the location to only one plant, and limit the number of trucks, if that is of concern to the Board.

Mr. Dunham asked Staff if there are any plans in the immediate future to make any improvements to Delaware? Mr. Stump replied that there are no immediate plans. It is ultimately supposed to have Riverside Drive connect at 101st Street which would be a primary arterial and curve to the east. Mr. Norman pointed out that there will be a need to have ready mix concrete trucks deliver in this area with or without improvements made to this street. The company tries to have a plant within 7 or 8 miles of the market and in this part of Tulsa it is almost impossible to find a location that meets the requirements of the Zoning Code and the Comprehensive Plan.

Mr. White asked how many trucks per day will be coming/going from the plant. Mr. Norman replied that a typical work day is about 30 to 32 concrete trucks. Mr. White asked Mr. Norman how many sand and gravel trucks per day run out of the area? Mr. Norman responded that those are operated by the sand and gravel plant and he does not know the numbers on that. The volume of traffic generated by the sand and gravel plant will not change. Mr. White stated that he is wanting to know the net increase in heavy truck traffic on Delaware. Mr. Norman stated that it is hard for him to know the exact number of trucks.

Interested Parties:

Bill Puroff, 10505 South Delaware, stated that he has lived at this address for 27 years. Mr. Puroff explained that the sand trucks tear up the street and they speed through the area. He is opposed to the addition of more trucks to the area.

Mr. Cooper asked Mr. Puroff if the noise comes primarily from the trucks or the dredging operation? Mr. Puroff replied that the noise is from the trucks. He explained that the dredging operation is about one-half mile away from him and he does not hear it.

Jerry J. Puroff, 3009 East 101st Place, Delaware Point, mentioned that there is heavy traffic on and around 101st Street. Mr. Puroff is also concerned about the amount of heavy truck traffic and the speed of the trucks. He is opposed to the application.

Russell Warner, General Manager of Philcrest Hills Tennis Club at 109th and South Delaware Ave. Mr. Warner submitted a petition of opposition (Exhibit P-2) signed by 79 members and employees of the club. He pointed out to the Board that the City has recently completed a sanitary sewer project along Delaware Avenue that will open the door for single family housing in the undeveloped areas along Delaware Avenue.

Joy Cepurniek, 7934 South Florence, President of the Board of Directors of Philcrest Hills Tennis Club. Ms. Cepurniek mentioned that the club has seven outdoor tennis courts on the south side of their facility. She is concerned about dust emissions coming from the plant onto their courts. Ms. Cepurniek asked the Board to deny the application.

Robert Lemons, 11411 South Winston, stated that he owns property at 101st and Delaware. Mr. Lemons mentioned that the concrete plant is already in existence and is currently in operation. Mr. Lemons suggested allowing the plant on a temporary basis until the jobs in the immediate area are finished.

Charles Schuller, 4838 South 70th East Avenue, stated that he owns 26 acres on the east and west sides of Delaware about two blocks south of Anchor Sand. Mr. Schuller also stated that the concrete plant is already in existence. Mr. Schuller summarized the history and past Board actions of the sand plant. He is opposed to the application and the ready-mix concrete plant. He pointed out that the minutes of the 1988 hearing reflect approval of a sand dredging operation only on the property.

Craig McGowen, 11033 South Delaware, stated that he owns Spring Creek Nursery. Mr. McGowen pointed out that the concrete plant has been in operation for over a month. There are trucks that bring limestone into the plant. On May 30, 1999, Mr. McGowen set up a video camera across the entrance to the plant for ten hours to count the number of trucks entering and leaving the plant. There were 140 18-wheel dump trucks; 31 small dump trucks; 73 concrete trucks; 9 18-wheel concrete trucks. The count consisted of trucks entering and leaving the plant. A majority of the trucks were owned by Mid-Continent Concrete. Mr. McGowen is concerned about the number of trucks on the street and the speed they go on it. The road is being destroyed because of the heavy trucks.

Tiny Thompson, 4990 East 114th Place, stated that he is primarily here on behalf of Jim Moore. Mr. Moore is the immediately adjacent property owner to the north of the site. Mr. Thompson mentioned that the sanitary sewer system has been put in place and the area is now ready for development. Mr. Thompson mentioned that he owns the river front about one-half mile south of the proposed concrete plant. He explained

that in 1992 he came before the Board for a Special Exception to allow a sand plant. He was granted permission to mine sand for a period of two years only. Some of the major concerns were increased traffic and noise. Mr. Thompson urged the Board to deny the application.

James Farris, 320 South Boston, stated that he represents several property owners in the area. Mr. Farris stated that his clients would like to develop their properties as single family neighborhoods, which is the highest and best use for property in that area. Mr. Farris asked the Board to consider all of the aspects presented to them today and deny the application.

Joe Tom Smith, 11885 South Yale, stated that he owns a nine acre tract and intends to develop it. Mr. Smith is concerned about the heavy truck traffic on Delaware especially during rush hour.

Applicant's Rebuttal:

Mr. Norman pointed out that most of the concerns and comments have been about the sand operation and not the characteristics of the ready-mix industry. Traffic is always and issue and always will be an issue. Traffic is caused by growth. Mr. Norman stated that sand is a commodity and because of the location of the source, sometimes the haul is a much longer distance than ready-mix concrete. The market for ready-mix concrete is caused by people building houses, driveways, public projects. The construction of the Creek Turnpike is a major factor in the market for the next two to three years in this vicinity. problems along 121st and Delaware. Mr. Norman explained that the traffic problems along 121st and Delaware, as discussed by Mr. Joe Tom Smith, are from Bixby and most of it will be eliminated with the operation of a plant at this location. Mr. Norman pointed out to the Board that the statistics given by the nursery owner of approximately 250 truck trips per day is an existing condition. The addition of this small plant will not greatly help nor hurt the traffic problem that currently exists. Mr. Norman suggested permitting the plant on a temporary basis (at least allow the completion of the public projects). Mr. Norman suggested to the area residents that they ask the City of Tulsa for some concentrated enforcement of the traffic laws.

Comments and Questions:

Mr. Stump asked Mr. Norman how far the concrete plant will be located from the northern boundary? Mr. Norman replied that it is located 150' north and south and 400' from the bank of the river.

Mr. Cooper asked Mr. Norman who the landowner is. Mr. Norman stated that the landowner is Mr. Newkirk and he has leased it to Anchor Industries. The concrete plant would be a sublease for the 1½ acre tract within that.

Case No. 18434 (continued)

Mr. White mentioned that there were some statements made from some of the protestants regarding the activities at this location and that the ready-mix concrete plant was already in operation. Mr. Norman replied that the plant is currently in operation and explained the field operations manager thought that the plant was a permitted use. Mr. Norman went on to explain that he filed the application on May 6, 1999 and received a notice dated May 14, 1999 from Mr. Roy Ballentine. Mr. Stump stated that he has not stopped operation and he is operating illegally.

Mr. White asked Mr. Norman if the all of the gravel is trucked into this site? Mr. Norman indicated that there is some small river type gravel that is produced from the dredging operation but it is not the type that is used in concrete. That would have to be brought from another site. The sand and water is available at this site.

Mr. Cooper asked if it is the desire of Mr. Norman's client to use the facility for a limited period of time or permanently? Mr. Norman responded that because of the difficulty of finding locations that can be zoned, it was a desire to have permanent approval. But the immediate market demand is what has motivated the need for this plant. A limited time period would be helpful to the public and the company if that is the Board's preference.

Ms. Turnbo stated that she is against the plant. She believes that a ready-mix concrete plant is too intense a use for this area.

Mr. Dunham mentioned that he is inclined to agree. He is willing to listen to arguments for a time limit. The reason Mr. Dunham is willing to listen to a time limit is that he believes traffic could be reduced with the plant. Mr. Dunham is definitely opposed to this use on a permanent basis. Mr. White agreed.

Mr. Cooper stated that he could see a compromise allowing both companies to use the area until he discovered that it wasn't all the same property owner and Mr. Norman does not have the authority to make a compromise for the property owner.

Ms. Perkins is hesitant to approve it because you are rewarding someone for openly defying something that the Board established in 1988.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, Turnbo, White "aye"; no "nays", no "abstentions"; no "absent") to **DENY *Special Exception*** to permit a ready mix concrete plant for the manufacture of cement utilizing sand and gravel at the source of supply for utilization off the premises on a 1.55 acre tract within a previously approved sand and gravel mining operation. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24**, finding that the use is not in harmony with the spirit and intent of the Zoning Code and that the use is too intense for the neighborhood, on the following described property:

Case No. 18434 (continued)

Lot 6 and the SE/4, NE/4, Section 32, T-18-N, R-13-E and the N/2, SW/4,
NW/4, Section 33, T-18-N, R-13-E, Tulsa County, Oklahoma.

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There being no further business, the meeting was adjourned at 5:22 p.m.

Date approved: _____

JULY 13, 1999

Chair