

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 785  
Tuesday, December 14, 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**

Dunham, Vice Chair   Perkins  
Cooper  
Turnbo  
White, Chair

Beach  
Butler

Jackere, Legal  
Ackermann,  
Zoning Official

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, December 13, 1999, at 10:48 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair White called the meeting to order at 1:00 p.m.

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**Case No. 18599**

**Action Requested:**

Variance of the setback from E. 11<sup>th</sup> St from 40' to 37.6' for addition to existing restaurant. SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS – Use Unit 12.A. Continuance is requested by a letter, which was proper and timely.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White "aye"; no "nays"; no "abstention"; Cooper, Perkins "absent") to **CONTINUE** this case to the January 11,2000 meeting.

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**Case No. 18600**

**Action Requested:**

In opposition requested a **Continuance** to January 26, 2000, regarding Special Exception to permit church and accessory church uses in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located at 1127 East 35<sup>th</sup> Place.

Case No. 18600 (continued)

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 3-0-0 (Dunham, Turnbo, White "aye"; no "nays"; no "abstentions"; Cooper, Perkins "absent") to **CONTINUE** this case to the meeting on January 11, 1999.

**MINUTES:**

On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (Dunham, Turnbo, White "aye"; no "nays"; "no abstentions"; Cooper, Perkins "absent") to **APPROVE** the minutes of October 12, 1999 (No. 782).

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**UNFINISHED BUSINESS**

**Case No. 18532**

**Action Requested:**

Variance of the average lot width of 200' to 161.59' and 133' for a lot-split. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6, located at 8160 South Elwood.

**Presentation:**

**John Moody**, 7146 South Canton, co-counsel with Mr. Bearer, is representing John French and Jack French. Mr. Moody stated this property has belonged to the French family for many years. He pointed out the long, narrow tract. Mr. French has a legal, nonconforming business on the property, using it for equipment maintenance and storage. Mr. French wants to convey 3.3 acres of the property in the rear to his son, who intends to build a five-bedroom, single-family dwelling on the property. Mr. Moody stated the condition is included in the application that it be used for residential purposes only. He added that this would be an advantage to the neighborhood in providing a nice residential buffer from the existing nonconforming industrial use to the residences on the west and southwest of the property. Mr. Moody included that an old barn on the property will be removed.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (Dunham, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper, Perkins, "absent") to **APPROVE** the **Variance**, of the average lot width of 200' to 161.59' and 133' for a lot-split with condition that an existing barn straddling the new property line be removed, and that tract G be used for residential purposes, finding the hardship to meet the requirements of Section 1607.C.

A tract of land in the S/2 of the N 2/3 divided equally as to area of the N/2 of the NE/4 of Section 14, T-18-N, R-12-E of the IBM, being more particularly

Case No. 18532 (continued)

described as follows: Beg. at a point on the E line of said S/2 N 2/3 a distance of 250.90' N of the SE/c of said S/2 N 2/3; the N 00°08'18" E on the E line of said S/2 N 2/3 a distance of 161.59' to a point 30' S of the NE/c of said S/2 N 2/3; thence N 89°53'57" W parallel with the N line of said S/2 N 2/3 a distance of 820'; thence S 00°08'18" W parallel with the E line of said S/2 N 2/3 a distance of 161.63'; thence E on the N line of an utility easement, a distance of 820' to the POB, less and except the E 50' thereof; AND a tract of land in the S/2 of the N 2/3 divided equally as to area of the N/2 of the NE/4 of Section 14, T-18-N, R-12-E of the IBM, being more particularly described as follows: Commencing at the SW/c of said S/2 N 2/3; thence S 89°53'42" E on the S line of said S/2 N 2/3 a distance of 1559.28' to the POB; thence continuing S 89°53'42" E on the S line of said S/2 N 2/3 a distance of 278.16' more or less to a point 820' W of the SE/c of said S/2 N 2/3; thence N 00°08'18" E parallel with the E line of said S/2 N 2/3 a distance of 412.43'; thence S 89°53'57" E parallel with the N line of said S/2 N 2/3 a distance of 820' to a point on the E line of said S/2 N 2/3; thence N 00°08'18" E on the E line of said S/2 N 2/3 a distance of 30' to the NE/c of said S/2 N 2/3; thence N 89°53'57" W on the N line of said S/2 N 2/3 a distance of 1098.7' more or less to a point 1559.28' E of the NW/c of said S/2 N 2/3; thence S 00°04'11" W parallel with the W line of said S/2 N 2/3 a distance of 442.41' more or less to the POB less and except the E 50' thereof all in the City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18578**

**Action Requested:**

Amend a required tie contract to release Lot 10, Block 3, Henry Addition. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located South of Southwest corner East Young Street & North Owasso Avenue.

**Presentation:**

**R.E. Walker**, Pastor of Pilgrim Rest Baptist Church, submitted a letter from the City of Tulsa Development Authority to acknowledge that the construction of the plan submitted has been accepted.

**Comments and Questions:**

Mr. Dunham asked if the City of Tulsa has sent anyone to determine if parking is adequate for the church. He explained that the concern is why the tie agreement was made, since two other lots have previously been released. The Board reviewed the size of the sanctuary and Landscape Plan.

Case No. 18578 (continued)

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Turnbo, White, Cooper "aye; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the amendment of the tie agreement to release Lot 10, Block 3, Henry Addition.

Lots 9, 10, 11 and 14 - 18, Block 3, Henry Addition, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18584**

**Action Requested:**

RECONSIDER a Variance of five-foot sideyard requirement to four feet in an RS-3 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located at 4619 East 37<sup>th</sup> Place.

**Presentation**

**Jerry Dixon**, 4619 East 37<sup>th</sup> Place, stated that after he added on to his house he was too close to the property line. He had previously obtained a building permit, approved by the City of Tulsa, which specified the structure was exactly five feet from the property. This was further established by White Survey, if the platted property lines are accepted. A second survey prompted by a neighbor's complaints revealed that he built four feet too close to the property line.

Mr. Cooper asked why a continuance was not requested earlier by the attorney representing him. The attorney had agreed with Mr. Cooper to request a continuance, but the applicant withdrew the request. He is now making the request again, for reconsideration of this variance.

**Mr. Allen Yerten**, 47 South 105<sup>th</sup> East Place, stated that this case has already been heard, and if it is granted, it will cause a substantial detriment to the public good. Based upon the violations of the Code, the applicant should not be forgiven.

**Comments and Questions:**

Mr. Cooper stated that the applicant was represented well the first time. There are no new facts and no indication of why there would be new facts to cause the Board to re-rule.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 2-1-1 (Dunham, Turnbo "aye"; Cooper "nay"; White "abstaining"; Perkins "absent") to **RECONSIDER** a **Variance** of five-foot sideyard requirement to four feet in an RS-3 district. Motion failed for lack of a majority of three.

Case No. 18584 (continued)

Lot 16, Block 2, Max Campbell 4<sup>th</sup> Addition, City of Tulsa, Tulsa County, State of Oklahoma and being located in a RS-3 zoned district.

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**Case No. 18588**

**Action Requested:**

Special Exception to permit off-street parking in a RM-2 district and a variance of required setback from centerline of Carson from 50' to 35'. This property is located at southeast corner of East 15<sup>th</sup> Street & Carson

**Presentation**

**Robert Nichols**, 111 West 5<sup>th</sup> Street, attorney representing this applicant. Mr. Nichols submitted a photograph. This particular lot has not been targeted to be developed for residential use, as have several in the area.

Ms. Turnbo asked where the auto access to this lot is located. Mr. Nichols stated off of Carson and the alley to the east of the lot. Mr. Nichols was corrected that the traffic would only come from the alley. Ms. Turnbo asked about landscaping and a privacy fence on the south side. Mr. Nichols stated they would have no problem with a condition to build a similar privacy fence on the south side and a hedge on Carson.

**Interested Parties:**

**Charlotte Hopkins**, 1515 South Carson Avenue, next door to the vacant lot. She said there are nine small children who live within this block in an old historical area. A parking lot would not help property values, or the appearance of the neighborhood. Ms. Hopkins submitted a petition of opposition from the neighborhood.

**David Hopkins** 1515 South Carson Avenue, wanted confirmation that the Board has the petition. Mr. White stated that the petition contains twenty-one names in opposition. Mr. Hopkins stated that there are a number of children who ride bikes in the area, and additional traffic would present a safety hazard. Mr. White asked if Mr. Hopkins recognized that his home and the vacant lot are zoned RM-2, and lots on east and north of the vacant lot are zoned for OM. Mr. Hopkins replied that he was aware, but the special exception should not be allowed to negatively impact the neighborhood.

**Jean Lemon**, 1524 South Cheyenne, stated that several neighbors have made offers to buy the property, or to take care of the property for them, without a positive response.

Mr. White asked what could be built there legally as it is zoned. Mr. Beach stated that a multi-story apartment building could be built there, as high as 35', with two to three stories, with sufficient parking.

Case No. 18588 (continued)

**Applicant's Rebuttal:**

Mr. Nichols reminded the Board that this is an uptown neighborhood. The use of the lot is limited in size and is impractical for multi-family housing. He stated that the applicant would accept the approval of the special exception with a denial of the variance and bring back a specific site plan, which would provide buffering to Carson and residents to the south.

**Comments and Questions:**

Ms. Turnbo, stated that she was on the committee to update this district's Comprehensive Plan several years ago. The neighborhood is becoming much more vital and it is still zoned for mixed use. The infill study could use creative ways to buffer this lot. Mr. Cooper stated his concern that this area will be in need of more parking space as time goes on.

**Board Action:**

The **MOTION** of **DUNHAM** to **APPROVE** the ***Special Exception*** to permit off-street parking in an RM-2 district and to **DENY** a ***Variance*** of required setback from centerline of Carson from 50' to 35'. The motion was **WITHDRAWN** before a vote.

On **MOTION** of **TURNBO**, the Board voted 3-1-0 (Turnbo, White, Cooper "aye"; Dunham "nay"; no "abstentions"; Perkins "absent") to **CONTINUE** the application, with the condition that the developers meet with the neighborhood and try to come up with a solution that would buffer the neighborhood, and return to the Board with a site plan, at the meeting on February 8, 2000.

The N 20' of Lot 10 & all of Lot 11, Block 2, Stonebraker Heights Addition to the City of Tulsa, Tulsa County, State of Oklahoma

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**NEW APPLICATIONS**

**Case No. 18590**

**Action Requested:**

Special Exception to permit a mobile home in an RS-3 district; Variance of time limitation to permit a mobile home on a permanent basis; a Variance of 30' of frontage on a public street; and a Variance to permit two dwelling units per lot of record. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located at 4643 N. Evanston Ave.

**Presentation:**

**Larry Corbett**, 4643 North Evanston Avenue, stated that his daughter wants to move her mobile home onto the property. The property was previously used for a mobile home park, but all of the homes were removed. There are existing septic lines and there is considerable distance between the selected site and the neighbors.

**Interested Parties:**

**Ron Fleming**, 4731 North Evanston, stated that his only interest is that it not become a trailer park again and that the septic tank be checked, so that it does not drain onto his property. He added that he has no objection to bringing in one trailer for their relative to live there.

**Roscoe Turner**, District 3 Councilor, requests a denial on this application, until the Councilors and the manufactured housing association can come to some agreements that will help everyone.

**Applicant's Rebuttal:**

Mr. Corbett stated that he was uncertain as to what Councilor Turner meant, but he just wants to move his daughter's existing mobile onto his property.

**Comments and Questions:**

Mr. White stated he has a note that Councilor Williams of that district is in opposition to the application. He added that this is a remote area, at the end of a long dead-end road, close to Bird Creek, and has an expressway at the back. Mr. Dunham stated that the property is large enough for two dwelling units.

Mr. Cooper stated it is becoming more of a gateway for the area and he can't tell how much can be seen from the neighbors', so he is against it.

Mr. White considered the location appropriate for the second mobile home because it is shielded from the expressway by elevation and trees.

**Board Action:**

The **MOTION** of **Cooper** the Board voted 2-2-0 (Turnbo, Cooper "aye"; White, Dunham "nay"; no "abstentions"; Perkins "absent") to **Deny** the **Special Exception** and the three **Variances** failed for a tie vote. Application was denied.

Beg at the SW/c NE SW SE thence N 264' NE to a point thence E 161.1' S 210.5' SW 262.4' Sly 188.6' W 381' to POB, Section 8, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18592**

**Action Requested:**

Variance of the required number of parking spaces from 40 to eight and a Variance of the required landscaping to none. SECTION 1226.D. USE UNIT 26. MODERATE MANUFACTURING AND INDUSTRY, Off-Street Parking and Loading Requirements – Use Unit 26, located at 5519 East 15<sup>th</sup> Street.

**Presentation:**

**Robert Dyer**, 5805 East 15<sup>th</sup>, states that the required number of parking spaces (40) is excessive for only eight employees. The plant is a concrete block loading yard, most of it paved, and the other part is covered with crushed stone that has been compacted over the years. Any planting would have little or no chance to exist. The front of property is Burlington Northern right-of-way, and so cannot be landscaped.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **Variance** of the required number of parking spaces from 40 to eight and the **Variance** of the required landscaping to none, on the condition that it be used for concrete block manufacturing.

A tract of land located in the W/2 of the SW/4 of the NE/4 and in the E 495' of the SE/4 of the NW/4, all in Section 10, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, Oklahoma, all being more particularly described as follows, to wit: Beginning at the point of intersection of the N and S centerline of said Section 10-19-13, and the Wly right-of-way line of the St. Louis – S.F. Railway (Howard Branch), said point being 342.5' S of the NW/c of the SW/4 of the NE/4 of said Wly right-of-way line, a distance of 115.71' to a point of curve for the right-of-way of the St. Louis – S. F. Railway (Fairgrounds Spur); thence around the arc of a curve to the right having a radius of 553.81' and along the Wly right-of-way of said Spur Track, a distance of 430.44' to an intersection with said N and S Centerline of said Section 10-19-13; thence continuing around the arc of the said curve to the right having a radius of 553.81' and along the NWly right-of-way line of said Spur Track, a distance of 344.1' to a point of tangency, said point being 238.81' W of said N and S Centerline of said Section 10-19-13, and 212.35' N of the E and W Centerline of said Section 10-19-13; thence in a SWly direction along a straight line, a distance of 287.02' to a point on the E line of Smithville addition to Tulsa, Oklahoma, said point being 82.94' N of said E and W Centerline of said Section 10-19-13; thence N along the E line of said Smithville Addition, a distance of 577.36' to a point on the N line of the SE/4 of the SE/4 of the NW/4 of said Section 10-19-13; thence N along the E line of said Smithville Addition, a distance of 630' to the N line of the SE/4 of the NW/4 of said Section 10-19-13; thence E along a line parallel to and 30' S of the N line of said SE/4 of the NW/4 of said Section 10-19-13, a distance of 396.7' to an intersection with the said Wly right-of-way of the said St. Louis – S. F. Railway (Howard Branch);



Case No. 18592 (continued)

thence in a SEly direction along said right-of-way a distance of 327.1' to the POB and being located in an IM zoned district.

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**Case No. 18593**

**Action Requested:**

Variance of minimum lot width from 60' to 58.33', 45.08', 42.84' and 57.69' for lot-split purposes. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located at 5700 S. Xenophon

**Presentation:**

**Lahoma Bassett**, a member of Real-Pro, LLC, 4948 South Union and **Paul Rongey** represented Dennis Hall. Mr. Rongey stated that there are two existing foundations on the two middle lots. The reason for the lot-split is that the property pins originally were improperly located. The footings were placed across two lots each. This request for variance is made to accommodate these foundations. The applicant is actually giving up one lot by taking five lots and making them into four lots.

**Comments and Questions:**

Ms. Turnbo asked if these were originally forty-foot lots.

**Interested Parties:**

**Alyn Alsobrook**, P.O. Box 9335, Tulsa, OK, stated that he and his wife Kathy have questions regarding this case. The Board answered their questions. They had no protest.

**Board Action:**

On **MOTION** of **DUNHAM**, the board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstention"; Perkins "absent") to **APPROVE** the **Variance** of the minimum lot width per plan submitted, the hardship being the unusual size of the existing lots, and finding that the new lots would be larger than the existing lots. Staff would remind the applicant that all of the RS-3 yard requirements must be met with any new construction.

Lots 12 - 16, Block 3, Woodview Heights Amended, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18594**

**Action Requested:**

Variance of sideyard on a corner lot from 15' to 7.3'. Variance of 20' requirement to 12.7' for a garage on the sideyard. SECTION 403 BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located at 9007 E. 40<sup>th</sup> St.

**Presentation:**

**Winifred Gail Cloud**, 9007 East 40th Street, stated that her house has been on the property for thirty-three years. She is the third owner of the property. She was recently informed that the house extends into the easement. She has had three surveys on the property, showing easements of three feet, four feet and seven feet.

**Comments and Questions:**

Mr. Beach asked where the 12.7 feet are located. Mr. Ackerman stated it is the difference of the 20' requirement and the 7.3'. Mr. Dunham did not think the second variance request was necessary. Mr. Beach stated that, so the record would be clear, if the Board is inclined to approve the first variance, then the second one should be stricken and everything should be covered.

**Board Action:**

On **MOTION** of **DUNHAM** the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **Variance** of the sideyard on the corner lot from 15' to 7.3', and **STRIKE** the **Variance** of 20' requirement to 12.7' for a garage on a sideyard, and that the existing house with existing garage is approved in its present location.

Lot 12, Block 1, Imperial Estates, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18595**

**Action Requested:**

Variance of the required three-foot setback from property line to eight inches for existing carport. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located at 11124 E. 28<sup>th</sup> Pl.

**Presentation:**

**Jimmie Ozment**, the applicant, 11124 East 28<sup>th</sup> Place, stated he had a carport installed in his backyard to cover his boat from a large pecan tree and to keep the frontyard neat. He stated that there is no room to move the carport over because of the pecan tree. A privacy fence was built between his house and the next door neighbor.

**Comments and Questions:**

Mr. Dunham determined the location of the neighbors' property. Mr. Dunham asked Mr. Ozment if he had a permit to build the carport. Mr. Ozment stated he did not know he had to have a permit to build the carport. Mr. Dunham asked how long the carport has been in place. Mr. Ozment stated it has been there over four years.

**Interested Parties:**

**Lou Duensing**, 11118 East 28<sup>th</sup> Place, and husband, Ted, appeared in protest. She submitted pictures to the Board for exhibits. She stated that the carport was built not over two years ago to her knowledge. She added that his driveway is right on the property line between them. The privacy fence needs to be replaced, but they cannot get to it because of all the items Mr. Ozment has stored there. She complained of loud motorcycle noise around 3:00 to 4:00 a.m., near their bedroom window.

**Ted Duensing**, 11118 East 28<sup>th</sup> Place, stated that the driveway could have been built with access to Garnett. Mr. White replied that there is not legal access from Garnett.

**Marie Jones**, 2813 South 112<sup>th</sup> East Avenue, stated she protests because of the impact on the neighborhood, with several cars, a motorcycle and a boat.

**June Gordon**, 2817 South 112<sup>th</sup> East Avenue, stated her concern is that if this variance is approved, then others in the neighborhood could do the same thing.

Mr. White presented a letter in support of this case, from neighbors next door, the Mansfields.

**Applicant's Rebuttal:**

Mr. Ozment stated he has no reason to use his motorcycle at those hours of the morning, but he does hook up his car and boat sometimes at 4:30 or 5:00 a.m. to go fishing. Mr. Cooper asked him what the hardship is for this variance. Mr. Ozment replied that a large pecan tree is about four inches from the carport and a little over eight inches from the privacy fence. Mr. Cooper asked if the variance is just for the carport and the drive. Mr. Beach stated that it is for the carport only and the driveway is not considered a structure in this case. Mr. Dunham asked if there was not a permit for the carport. Mr. Ozment stated he had no permit for the construction of the carport.

**Board Action:**

On **MOTION** of **DUNHAM** the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays", no "abstentions" Perkins "absent") to **DENY** the **Variance** of the required three-foot setback from property line to eight inches for

Case No. 18595 (continued)

existing carport, finding the neighbors to be concerned that it will cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan and it was built without a permit.

Lot 23, Block 11, Valley Glen, City of Tulsa, Tulsa County, State of Oklahoma

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**Case No. 18596**

**Action Requested:**

Variance of the required 300' distance between a liquor store and pawn shop to 0'. SECTION 1214.C.3. USE UNIT 14. SHOPPING GOODS AND SERVICES, Use Conditions – Use Unit 14, located on the NE/c E. Independence & N. Peoria

**Presentation:**

**Pattie Robinson**, 740 North Quaker, stated that the liquor store and pawn shop are family-owned and operated. She has made application for the variance for security purposes, stating that after 6:30 p.m. there is nothing open except the liquor store. If the pawn shop is next door she would keep both businesses open the same hours.

**Comments and Questions:**

Mr. White asked staff to explain the spacing regulation in the Zoning Code. Mr. Beach replied that the intent was from a perception that the patronage of certain types of businesses might be undesirable. The spacing was to prevent clustering of the patronage at these businesses. Mr. Dunham stated that they are family-owned and there are no protestors. Mr. Ackerman asked staff if this spacing requirement was placed in the ordinance last year. It was confirmed that the space requirement was added in February 1998.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (White, Dunham, Turnbo, "aye", Cooper "nay"; no "abstentions"; Perkins "absent") to **APPROVE** the **Variance** of the required 300' distance between a liquor store and pawn shop to 0', finding the hardship to be security issues and these are one-family-owned businesses in one building.

Lots 13 through 16, Block 5, Capitol Hill Addition, City of Tulsa, Tulsa County, State of Oklahoma and being located in a CH-zoned district

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**Case No. 18597**

**Action Requested:**

Special Exception to allow a Use Unit 12A within 150' of an R zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12A, a Variance of off-street parking requirement of 54 spaces to 0. SECTION 1212.A.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Description, and a Variance of spacing requirement of 300' from another Adult Entertainment Establishment down to 150'. SECTION 1212.A.C.3.c. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Description, located at 1209 N. Sheridan

**Presentation:**

**Martin Gayton**, 11410 East 61<sup>st</sup> Place, Broken Arrow, stated he did not understand the need for this action.

**Comments and Questions:**

- Mr. Dunham explained that there is a spacing requirement for a certain distance between bars. He stated that in the last six to eight months another bar just south of this one came before this Board for approval. It was determined at that time that the bar in this case has never been permitted. The Board continued the other case to find out if there is a permit on this bar, and found out there was no record of permit. Mr. Dunham stated that the other bar has been there since before the permitting and spacing requirements were necessary. The bar in this case should have come before the Board when it was put in eleven or twelve years ago.

**Interested Parties:**

**B.J. Myers**, owner of the property, stated that she was unaware of the lack of a permit for this business.

Mr. Dunham asked what variances are needed. Mr. Beach stated that Mr. Gayton applied for a zoning clearance permit. There were several deficiencies identified. One problem is that he has to provide one off-street parking space for every 75 square feet of floor area, and he did not provide adequate information to determine the parking requirement. Mr. Beach explained that the reason the request is for zero parking spaces is because the bar is located in a strip-shopping center. The center has thirty-eight spaces and the requirement for this bar is fifty-four spaces. There is not adequate parking space for the bar.

Ms. Myers added that they also own two parcels contiguous with the shopping center to the south all the way to the other bar.

**Mr. Howell Joiner**, 7015 East Haskell Street, coordinator McKinley/Mitchell Neighborhood Watch Group, appeared on behalf of the group to protest the variance request. Their concern is that parking will overflow in the neighborhood, parking on the streets and obstructing driveways. He stated that they have observed the problems created by a similar situation with another bar that were detrimental to the neighborhood. Mr. Joiner stated that the bar has been closed and vacant. His position as coordinator of the group is that if the bar is going to operate that it should have to be within the 300' guideline without any variances and they would have to maintain adequate off-street parking spaces.

**Bob Painter**, 1151 North 66<sup>th</sup> East Avenue, a neighbor behind the center and next to the city park. He indicated that there are children who stay out in the park until late at night and make a lot of noise. He stated that he did not think that the location of the bar was compatible with this neighborhood activity. He owns three of the eight houses behind the bar. He added that five of them have been broken into in the last ten years and two of them involved patrons of the bar just south of the one in this case. Sheridan is a main thoroughfare used by people from out of town, and he stated he would like to see it developed better.

**Jean Painter** offered a statement regarding a wreck caused by a drunk driver that hit a parked car.

**Ed Cathcart**, 6947 East Newton Place, stated he has experienced several threats of bodily harm, and removed men who were patrons of the bars from schoolyards.

**Karen Campbell**, 6214 East Latimer Street, homeowner since 1976 in the neighborhood. She has children who go to school nearby. She indicated that many of the neighbors would like to see the area grow and thrive. They are seeing the opposite effects with the bars opening there.

**Beverly Schultz**, 6627 East Newton Place; **(name inaudible)**, 6615 East Newton Place; and **District Councilor, Roscoe Turner** spoke their opposition and agreement with reasons given above and requested to uphold the requirements of the zoning ordinance.

**Applicant's Rebuttal:**

Ms. Myers submitted photos to show the distance between the two bars. She stated that a one-time promotional event on one of the properties may have flooded the neighborhood with cars. Ms. Myers stated that her understanding is that patrons cannot carry bottles out of the bar, so the source of such trash in neighbors yards is not necessarily from the bars. Concerning the park, she

Case No. 18597 (continued)

informed the Board that she owns the property behind the center the full length of the center, and there is a road between it and the park.

**Board Action:**

On **MOTION** of Turnbo the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **Deny** the ***Special Exception*** to allow a Use Unit 12A within a 150' of an R-zone district; to **Deny** the ***Variance*** of off-street parking requirement of 54 spaces to 0; and to **Deny** a ***Variance*** of spacing requirement of 300' from another AEE, down to 150', finding it would be injurious to the neighborhood.

W 165' S 264' of Lot 2, Block 1, Aviation View, City of Tulsa, Tulsa County, State of Oklahoma

\*.\*.\*.\*.\*.\*.\*.\*.\*.\*.

**Case No. 18598**

**Action Requested:**

Variance of the provisions of Section 804 of the Tulsa Zoning Code requiring that corridor development access shall be principally from internal collector service streets. SECTION 804. ACCESS REQUIREMENTS, located at South side of East 81<sup>st</sup> Street East of South Mingo Road.

**Presentation:**

Charles Norman, stated this application covers the north half of a small airport. All of the property in this area, except the college to the east, is in the corridor zoning district and there is a single-family subdivision to the south. There is a case pending that will be heard by the Planning Commission tomorrow regarding this tract for CO zoning and for a corridor district site plan. There has not been an established internal collector street in the northwest corridor of the section, and there is no possibility of that occurring. There will be no public thoroughfare or collector street through the college campus or the commercial property on the west. There is no physical possibility of establishing an internal collector street through the ten acres in the northwest corridor. The planning commission staff is recommending approval of the corridor district site plan and CO zoning, subject to this Board's approval of the variance for the requirement of access principally from an internal collector street.

**Comments and Questions:**

Mr. Cooper asked what will prevent five means of ingress and egress onto 81<sup>st</sup>. Mr. Norman replied that the corridor site plan and the plat process has a central entrance for all of the lots, and staff has recommended not more than three points of access.

Case No. 18598 (continued)

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **VARIANCE** of the provisions of Section 804 of the Tulsa Zoning Code requiring that corridor development access shall be principally from internal collector service streets, finding the hardship to be the core section has already been developed and the internal collector street will not be possible.

The E 20 acres of Government Lot 1 in Section 18, T-18-N, R-14-E of the IBM, City of Tulsa, Tulsa County, Oklahoma, less and except the following tract of land, to wit: Commencing at the NW/c of said Section 18, thence S 89°37'36" E along the Nly line of Section 18, and along the Nly line of Government Lot 1 for 1214.34' to the NE/c of said Lot 1; thence S 00°02'25" E along the Ely line of Government Lot 1 for 659.77' to the POB of said tract of land; thence continuing S 00°02'25" E along the Ely line of Lot 1 for 659.91' to the SE/c of Lot 1 and also the NE/c of South Towne Square Addition; thence N 89°39'05" W along the Sly line of said Lot 1 and also along the Nly line of South Towne Square for 659.53' to the NW/c of Lot 14 in Block 1 of South Towne Square; thence due N along the Ely line of Lot 13 in Block 1 of South Towne Square and an extension of said Ely line parallel with and 555.72' Ely of as measured perpendicularly to the Wly line of said Lot 1, for 340'; thence S 89°39'05" E parallel with the Sly line of Lot 1 for 10'; perpendicularly to the Wly line of Lot 1, for 319.91'; thence S 89°39'05" E parallel with the Sly line of Lot 1 for 649.06' to the POB of said tract of land

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**Case No. 18604**

**Action Requested:**

Special Exception to allow tent sales for maximum allowable time, 179 days per calendar year. SECTION 1202.A. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Description – Use Unit 2, and Special Exception to allow gravel parking. SECTION 1202.C. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions, located at NW/c of E. 11<sup>th</sup> St. and 193<sup>rd</sup> E. Ave.

**Presentation:**

**Alan and Holly Rosser**, 2301 East Reno, Broken Arrow, appeared to request use of property for tent sales for the maximum number of days per calendar year. They have a contract with the owners on that corner. Ms. Turnbo asked if they want the Special Exception to allow gravel parking. Mr. Dunham stated that for a tent there has to be a setback of fifty feet from the right-of-way. Ms. Rosser stated it is seventy-five feet. She mentioned that there is an asphalt



Case No. 18604 (continued)

driveway for trucks to do turnarounds. Mr. White asked if the tent is erected there now. She answered affirmatively. Mr. White said that technically the tent is on highway right-of-way, which is illegal.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a ***Special Exception*** to allow tent sales for maximum allowable time, 179 days per calendar year, and Special Exception to allow gravel parking, with understanding that tent will need to be moved to comply with requirements, finding that it 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.

Lots 5-7, Block 3, Indian Hills, City of Tulsa, Tulsa County, Oklahoma and being located in a CS zoned district.

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**Case No. 18602**

**Action Requested:**

Requests the removal of the previously-approved condition (BOA-11752 on 1-07-82) of "owner only" to permit the sale of autos and mobile homes in a CS district. SECTION 701 PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located on the SW/c of E. 11<sup>th</sup> St. and 145<sup>th</sup> E. Ave.

**Presentation:**

**Mr. William LaFortune**, 2900 Mid-Continent Tower, represented Andy Flynn, who has owned the property for over seventeen years. Applicant is in agreement with the staff comments. He stated that the relief requested is simply asking the Board to lift the condition of "owner only" as it relates to a Special Exception in 1982 that allows auto and mobile home sales on this property.

**Interested Parties:**

**James Mautino**, 14628 East 12<sup>th</sup> Street, on the Board of Tower Heights Neighborhood Association representing the residents in the area to protest the removal of "owner only" condition, and to change the zoning to CS.

Mr. White stated that the original exception was granted, and cannot be reversed. However, conditions can be imposed on the special exception by the Board today, should the "owner only" be removed.

Mr. Prather stated that the "owner only" can be stricken and still allow the sale of autos and mobile homes in the CS district, because it was the only special exception granted.

**Randy McPherson**, 14326 East 11<sup>th</sup> Street, is opposed to the high noise levels from automotive repair equipment, such as impact wrenches; and black-topping that will cause increased water drainage into his yard.

**Eck Ruddick**, 14673 East 11<sup>th</sup> Street, representing the neighborhood association, opposes the Use Unit 17 that would allow the selling of autos and mobile homes in the area.

Mr. Cooper asked Mr. Prather to explain what was the basis for the previous Board's decision. Mr. Prather stated that it was a common practice to add the "owner only" condition. He stated that he would have to look into it and come back before the Board with further information on it.

**Applicant's Rebuttal:**

Mr. LaFortune stated that lifting of the "owner only" condition will not change or expand the use, as has been stated.

**Comments and Questions:**

Mr. Cooper asked if this was considered a variance or a special exception. Mr. White responded that it is only regarding the condition. Mr. Prather stated that the condition runs with the land, not the owner. The way it was advertised to remove the condition is the only thing that the Board can decide on today.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** the request for removal of the previously-approved condition (BOA-11752 on 1-07-82) of "owner only" to permit the sale of autos and mobile homes in a CS district.

The S 150' of Lot 1 and all of Lot 2, Block 1, less and except the E 31.4' of the N 150' thereof, Maudlin Re-subdivision of Block 1 and Lots One, Two and Seven of Block Two, Eleventh Street Acres, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18603**

**Action Requested:**

Variance of the allowable height for a fence from four feet in front to 4'6" on brick wall. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located at 3124 S. 137<sup>th</sup> E. Ave.

Case No. 18603 (continued)

**Presentation:**

Mr. Beach stated that the request is not specific enough to allow the Board to make a decision. Staff cannot determine if the fence would be 4'-6' from the ground or from the top of the brick wall, not how high the brick wall is.

**Board Action:**

On MOTION of TURNBO, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to CONTINUE this case to the 01-11-00 meeting, requesting that the applicant bring photos and exact measurements of what is being requested.

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**Case No. 18605**

**Action Requested:**

Special Exception to allow a church and related church uses in an AG-zoned district. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5, located W of NW/c of E. 21<sup>st</sup> St. and S. Lynn Lane

**Presentation:**

**Stephen Carr**, representing the church who has made application for special exception. He indicated the church has submitted a site plan for the proposed development of the property in three phases. The sanctuary would be the first phase; the parsonage would be second and a multi-purpose building would be the third phase.

**Board Action:**

On MOTION of DUNHAM, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **Special Exception** to permit a church in a RS-3-zoned district, finding that it 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.

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**Case No. 18606**

**Action Requested:**

Variance of the required number of parking spaces from ten to five for a credit union. SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, Off-Street Parking and Loading Requirements – Use Unit 11, located on the NE/c E. 11<sup>th</sup> St. & S. Troost.

Case No. 18606 (continued)

**Presentation:**

**John Moody**, 7146 South Canton, representing the Hillcrest Federal Employees Credit Union requests the variances based on low number of employees and customers in the facility per every hour of the day, and the approval of the City Traffic Engineer for use of the alleyway for parking, because of its width.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **Variance** of the required number of parking spaces from ten to five for a credit union, and **Variance** to permit access to parking spaces via public alleyway, finding the hardship that it is an old CH building, and adequate parking is provided.

Lots 21 & 22, Block 9, Park Dale Addition, City of Tulsa, Tulsa County, Oklahoma and being located in a CH zoned district.

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**Case No. 18607**

**Action Requested:**

Minor amendment to a previously approved site plan. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located at 8707 East 51<sup>st</sup> Street..

**Presentation:**

**Rev. Danny Dyer**, pastor of Regency Park Church of the Nazarene, 8707 East 51<sup>st</sup> Street, presented the case. They do not have adequate parking on Sundays and it spills over into the neighborhood. To prevent that, they would like to proceed with a plan that was designed several years ago. The church owns four dwellings just north of the church. One house was damaged by a tree that fell on it. They would like to tear the house down and extend the parking lot.

**Interested Parties:**

**John H. Miller**, 8730 East 50<sup>th</sup> Street, stated that his property joins the church's rental houses, located on the corner. He is opposed to a parking lot, which could cause excessive water flow onto personal property. The lot attracts kids at night and increases the noise level.

**Mitchell O'Donnell**, attorney in the Petroleum Club Building, representing the Regency Park Homeowners' Association. They object to the variance because a parking lot degrades the neighborhood to some degree. The four lots were to

Case No. 18607 (continued)

be used for residential property, as stated in the deed of dedication and provided for by the restrictive covenants.

**Margo Henthorne**, 1529 South 94<sup>th</sup> East Avenue, stated her concern is that the parking lot will lessen the value of the homes in the vicinity.

**Vickie Morris**, P.O. Box 54139, opposed the destruction of the homes for parking lots, because previously Mr. Moody and Pastor Bolerjack of the church met with the homeowners. They assured the homeowners that the four houses would stay the same, and not be torn down.

**Sue Miller**, 8730 East 50<sup>th</sup> Street, opposes the variance to the plan.

**Applicant's Rebuttal:**

Rev. Dyer stated that there are no basketball goals or anything to attract kids to the parking lot. The new parking spaces will be an extension of the existing lot, and will improve traffic flow by providing parking spaces rather than parking on the streets.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the

**Minor Amendment** to a previously-approved site plan, finding it meets the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Legal Description: Lots 15-19, Block 1, Regency Park West, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18608**

**Action Requested:**

Variance of the required landscape width for the east 105' of the East 73<sup>rd</sup> Street frontage to less than 5' in width. SECTION 1002.A.2. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements, and Variance of the required off-street parking spaces from 137 to 112 spaces (U.U. 19) or from 132 to 115 (U.U. 13 and 14). SECTION 1213. USE UNIT 13. CONVENIENCE GOODS AND SERVICES; SECTION 1214. USE UNIT 14. SHOPPING GOODS AND SERVICES; and SECTION 1219. USE UNIT 19. HOTEL, MOTEL AND RECREATION FACILITIES – Use Unit 13 & 14, located on the SE/c of E. 73<sup>rd</sup> St. and Memorial Dr.

Case No. 18608 (continued)

**Presentation:**

**Charles Norman** stated that this case involves a building at 73<sup>rd</sup> and Memorial that was constructed in 1976 or 1977, for sales of carpet and furnishings, then by furniture stores requiring less parking than general commercial use. The building is vacant on an expensive and desirable corner with inadequate parking for other types of use. The Family Fun House would like to relocate to this location and increase the parking, but would still be short of space by two parking spaces. A site plan has been submitted for the indoor use that has 4800 square feet of storage and repair space. If that space was deleted from the total space within the building, then the parking space would fall within two spaces of the new use or for general commercial use.

**Comments and Questions:**

Mr. Cooper commented that if the requirements for parking space goes with the land, that leaves it open for more dense uses. Mr. Norman reminded the Board that retail parking needs would be less than what the Fun House will require, should the business on the property change.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the **Variance** of the required landscape width for the east 105' of the East 73<sup>rd</sup> Street frontage to less than five feet in width, and the **Variance** of the required off-street parking spaces from 137 to 115 spaces for U.U. 19 and from 132 to 115 (U.U. 13 and 14), on the condition that the two storage areas shown on the building plan remain as non-retail space.

Lot 1, Block 2, El Paseo, City of Tulsa, Tulsa County, Oklahoma

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**Case No. 18609**

**Action Requested:**

Special Exception to allow a community center (after-school day-care facility for children ages 6-15). SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; Variance of the required parking spaces from 3 to 2; Variance of minimum frontage requirement from 100' to 60'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; Variance of minimum lot area from 12,000 SF to 7,200 SF. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; Variance of minimum setback from other R zoned properties. This property is located at 5627 North Garrison Avenue.

**Presentation:**

**Valerie Tillis**, 5627 North Garrison Avenue, appeared to present this case. Her son was murdered, and he was raised in this house. She desires to give back to the community by using the house to provide children in the area a safe place with supervision and activities after school. Ms. Turnbo asked for the square footage of the house. She also asked for clarification of how many workers will be there at all times. Ms. Tillis stated that there will probably be four workers there at all times, and she would be checking in. Ms. Turnbo asked where people would park. Ms. Tillis stated that she received a grant from UPS to have the side of the driveway paved and wants to construct a circle drive in the frontyard. This would provide three accessible parking spaces.

**Interested Parties:**

**John Moore**, 8730 East 50<sup>th</sup> Street North, where he has resided for twenty-three years. He felt the need to disagree with the request for special exception. He stated that the children it would draw would be the ones who cause problems in the neighborhood. He has experienced property damage to his fence and truck because of children who do not live there going through the neighborhood. The children have teased his dogs so badly that the dogs bit a neighbor. He stated that he does not want strangers parking up against his fence, but he would not object to his neighbor building a privacy fence.

**Applicant's Rebuttal:**

Ms. Tillis stated that children who would come to her facility would be those that live nearby. Only children whose parents made arrangements for their care would be at the facility. She included that they already planned to build a privacy fence.

**Comments and Questions:**

Mr. Dunham stated that it is a great idea, but the number of variances it would require makes it inappropriate in the neighborhood.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Cooper, Perkins "absent") to **DENY** the **Special Exception** to allow a community center (after-school day-care facility for children ages 6-15); **Variance** of the required parking spaces from three to two; **Variance** of minimum frontage requirement from 100' to 60'; **Variance** of minimum lot area from 12,000 SF to 7,200 SF; and the **Variance** of minimum setback from other R-zoned properties, finding that the small size of the property and the number of variances needed would not be in harmony with the spirit and intent of the Code, and will be injurious to the neighborhood or otherwise detrimental to the public welfare.

Case No. 18609 (continued)

Lot 23, Block 12, Suburban Hills Addition, City of Tulsa, Tulsa County,  
Oklahoma

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**Case No. 18611**

**Action Requested:**

Special Exception to permit limestone mining in an AG and IM district.  
SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS  
and SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE  
DISTRICT – Use Unit 24, located N of E. 46<sup>th</sup> St. N. and 129<sup>th</sup> E. Ave

**Presentation:**

John Ringwald, 3605 North 129<sup>th</sup> East Avenue, appeared before the Board for  
APAC.

**Board Action:**

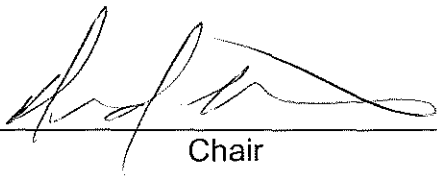
On **MOTION** of **DUNHAM**, the Board voted 3-0-0 (White, Dunham, Turnbo,  
"aye"; no "nays"; no "abstentions"; Cooper, Perkins "absent") to **APPROVE** the  
***Special Exception*** to permit limestone mining in an AG and IM district, finding  
it will not cause substantial detriment to the public good or impair the purposes,  
spirit, and intent of the Code, or the Comprehensive Plan.

SE/4 SE/4 Section 8, T-20-N, R-14-E; and the SW/4 SW/4 and W/2 SE/4 SW/4  
and SE/4 SE/4 SW/4 all in Section 9, T-20-N, R-14-E, City of Tulsa, Tulsa  
County, Oklahoma

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There being no further business, the meeting was adjourned at 5:42 p.m.

Date approved: 1-11-2000

  
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Chair