

**CITY OF TULSA BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 817  
Tuesday, April 24, 2001, 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 | Beach  | Jackere, Legal |
| Cooper             | Turnbo  | Butler |                |
| White, Chair       |         |        |                |

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5<sup>th</sup> St., Suite 600, on Friday, April 20, 2001, at 8:40 a.m., as well as at the City Clerk's office, City Hall.

After declaring a quorum present, Chair, White called the meeting to order at 1:05 p.m.

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**Case No. 19051**

**Action Requested:**

Mr. Beach stated that the case has been withdrawn.

**Case No. 19054**

**Action Requested:**

Mr. Beach informed the Board that the applicant has withdrawn this application.

**Case No. 19039**

**Action Requested:**

Mr. Beach stated that an interested party made a timely request for continuation to allow time to discuss the application with the applicant.

**Board Action:**

On **MOTION** of Dunham, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a **CONTINUANCE** to the meeting of May 8, 2001.

**UNFINISHED BUSINESS**

**Case No. 19008**

**Action Requested:**

Special Exception of required 110% tower setback (88') from adjoining OL district to 46' to permit a U.S. Cellular 80' monopole wireless telephone transmission

tower in a CH-zoned district. SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions and SECTION 1608. SPECIAL EXCEPTION – Use Unit 4, located 1107 S. Florence Pl.

**Presentation:**

**Kevin C. Coutant**, 320 S. Boston, stated that this is the same application he presented six weeks ago. Since then he has met with the neighborhood association leaders and members. He submitted a packet of exhibits (Exhibits A-1 site plan; A-2 response to factors, and other; A-3 landscape plans). The pole would be an 80' wooden monopole with three slim-line antennas and availability for collocation of two similar facilities. The tower would be about 120' from nearest residential structures, 90' from existing area; commercial zoning to the north, east, west and a parking lot on the south. The surrounding topography is flat, and there is no tree coverage. The equipment will be enclosed in an outdoor cabinet 5' X 12'. Ingress and egress will be per access easement to S. Florence Pl. The tower is needed to provide coverage for the University of Tulsa campus, in-building coverage for Skelly Stadium and T.U., to off-load towers at I-244/Admiral between Yale and Sheridan, and at 11<sup>th</sup> and Lewis at the fairgrounds. The tract size is 100' x 140', with likely commercial development.

**Interested Parties:**

**Michelle Grounds** stated she is the president of the Renaissance Neighborhood Association. She stated that they object to setting a precedent and expressed concerns regarding collocation. The association members were pleased regarding the landscaping plans and screening fence that the applicant proposed.

**Marcell Fribee**, 6505 E. 99<sup>th</sup> St., owner of the OL-zoned lot for which the variance was needed, she stated the Code requirement for setbacks was written for a reason.

**Cheryl Dyer**, 1122 S. Birmingham Pl., stated she represented the neighborhood association. She submitted a petition with 32 signatures (Exhibit A-5) of opposing residents. She stated her concern for health issues.

**Earline Walker**, 3140 E. 11<sup>th</sup>, stated that she owns the subject property. She informed the Board that several property owners rescinded their signatures from the petition of opposition. Ms. Walker stated that she and her husband have been in the neighborhood for 30 years and have tried to help improve it. They studied this project before they decided.

**Applicant's Rebuttal:**

Mr. Coutant noted that the very language of the Code and advertising could lead to misunderstanding of the type of structure. He stated that the burden is on the applicant to help the neighborhood understand what the facility would look like. He reminded the Board that the FAA has negated issues of health hazards from cell

towers. Mr. Coutant felt that they have demonstrated the need for the pole and provisions for coverage with minimal impact on the neighborhood.

**Comments and Questions:**

Mr. Dunham commented that the applicant has demonstrated the need, and TU has responded that they do not want to lease. Mr. Cooper noted that there is some obligation to make accommodation for these towers under federal law. He stated that if we only put them where people want them, we wouldn't have any. T.U. is creating a demand because of their facilities and yet apparently is not able to accommodate further users. He stated that there are certain areas of town where there are few places to locate towers and it causes a concentration of towers in other places. He expects there will be a greater need and indicated if the pole or tower were taller it could accommodate more collocation. Mr. White commented that he would not be for this application if it were located in the R-zoned area. He compared the cell pole to the light standards at Skelly Stadium and the power poles along 11<sup>th</sup> Street. He considers the pole to be less intrusive than those structures.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a **Special Exception** of required 110% tower setback (88') from adjoining OL district to 46' to permit a U.S. Cellular 80' monopole wireless telephone transmission tower in a CH-zoned district, with six-foot screening fence; and with landscaping per plan, finding all the factors required would be met, and 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, on the following described property:

Lot 23, Block 1, Pilcher Summit Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**NEW APPLICATIONS**

**Case No. 19035**

**Action Requested:**

Special Exception to permit an outdoor flea market in a CG district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 2, located 2626 W. Skelly Dr.

**Presentation:**

**Rick Vanderpool**, 2614 W. Skelly Dr., stated he also owns property to the east of his original property. It was abandoned and had no structures. He cleaned it up and fenced it.

**Comments and Questions:**

Mr. White asked if the property to the south where the construction company is located belonged to the applicant. He replied that it did not. Mr. Beach asked for a more specific property line description. Mr. White determined the site was not properly advertised.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **CONTINUE** Case No. 19035 to the meeting on May 22, 2001 to advertise with the proper legal description.

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**Case No. 19036**

**Action Requested:**

Variance to allow two dwellings on one lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 9; a Special Exception to allow a manufactured home in an R-zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; and a Special Exception to allow a manufactured home permanently. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located W of SW/c E. 54<sup>th</sup> St. & N. Zunis Ave.

**Presentation:**

**Carolyn Harris Lee**, 2004 E. 54<sup>th</sup> St. N., stated her plans to move a manufactured home onto the subject property as a permanent residence.

**Comments and Questions:**

Mr. White noted that the Board has approved two other manufactured homes within one block of this property within the last two years. Mr. Cooper asked if access to the property is prevented from 51<sup>st</sup> Street N. because of the pond. She responded that it is blocked.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Variance*** to allow two dwellings on one lot of record; a ***Special Exception*** to allow a manufactured home in an R-zoned district; and a ***Special Exception*** to allow a manufactured home permanently, with conditions of DEQ approval, tie-downs, skirting, building permit, finding the lot is large enough to accommodate two dwellings, on the following described property:

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**Case No. 19040**

**Action Requested:**

Variance of the 750 sq. ft. requirement to 1920 sq. ft. for a detached garage. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6, located 3546 N. Sheridan.

**Presentation:**

**Albert Tocci**, 3546 N. Sheridan, stated he collects antique Mac trucks and would like to build a place to store them out of the weather. He would not need electric or water to the structure.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, “aye”; no “nays”; no “abstentions”; Perkins, Turnbo “absent”) to **APPROVE** a **Variance** of the 750 sq. ft. requirement to 1920 sq. ft. for a detached garage, finding the lot is large enough to support the additional size and that it would not be used for commercial activity, per plan, on the following described property:

A tract of ground in the NE/4 NE/4 of Section 22, T-20-N, R-13-E, and more particularly described as follows to-wit: Beg. at a point 208.89' S of the NE/c of Section 22, T-20-N, R-13-E, on the E line of said Section 22, thence W and parallel to the N line of said Section 22 a distance of 35' to a point; thence S and parallel to the E line of said Section 22 a distance of 25'; thence W and parallel to the N line of said Section 22 a distance of 25'; to a point; thence N and parallel to the E line of said Section 22 a distance of 25' to a point; thence W and parallel to the N line of said Section 22 a distance of 625.11' to a point; thence S and parallel to the E line of said Section 22 a distance of 200.00' to a point; thence E and parallel to the N line of said Section 22 a distance of 685.11' to a point; thence N along the E line of said Section 22 a distance of 200.00' to the POB, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19041**

**Action Requested:**

Special Exception to permit special event parking and shuttle drop-off for the U.S. Open from June 10-18 located less than 50' from an R-zoned district and on another lot than the principal use. SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 5, located 6677 Evanston Cir.

Mr. Cooper stated he would need to abstain from this case.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **CONTINUE** Case No. 19041 to the next meeting May 8, 2001, for a quorum to vote.

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**Case No. 19042**

**Action Requested:**

Special Exception to permit special event parking on a lot not containing the principal use for the U.S. Open from June 10-18, 2001. SECTION 1303.F. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 5, located SW/c E. 61<sup>st</sup> St. & S. Yorktown.

**Presentation:**

**Steve Worth**, 19 Short St., Charleston, S.C., stated that they need additional parking on a grassy area during the week of the U.S. Open, from 7:00 a.m. to 7:00 p.m. on June 9<sup>th</sup> through June 18<sup>th</sup>, 2001.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special Exception*** to permit special event parking on a lot not containing the principal use for the U.S. Open from June 10-18, 2001, during the hours of 7:00 a.m. to 9:00 p.m., 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, on the following described property:

E 540.7' NW/4 NE/4 Section 6, T-18-N, R-13-E, less E 30' and N 50' for roadway, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19043**

**Action Requested:**

Variance of required landscaping to substitute other plantings. SECTION 1002. LANDSCAPE REQUIREMENTS and SECTION 1003. ADMINISTRATION – Use Unit 5, located 1706 N. Madison.

**Presentation:**

**John Purdy**, 22801 E. 98<sup>th</sup> St., stated they desire to use alternate plantings for the required landscaping to make it more financially feasible. He submitted a landscape plan (Exhibit B-1). He described the landscaping plan for the Board. Mr. White asked if the landscaping would be implemented with the construction of the building. Mr. Purdy replied that it would. Mr. Cooper commented that it appeared they were substituting bushes for trees.



**Comments and Questions:**

Mr. Beach stated that he could not evaluate these plans in a few minutes during the meeting.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **CONTINUE** Case No. 19043 to the meeting on May 22, 2001 to give the applicant time to submit his landscape plan to the City.

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**Case No. 19044**

**Action Requested:**

Minor Variance of yard abutting an arterial street from 35' to 32'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 1441 N. Denver.

**Presentation:**

**Mike Parks**, 6550 E. 71<sup>st</sup>, stated he is a realtor and construction manager for Terry McGee. He stated that the property is at the corner of Pine and Denver. In order to conform to the strict architectural guidelines of the Brady Heights area, they need the additional footage to build the home that has been approved by the association.

**Comments and Questions:**

Mr. Dunham asked if the relief from 85' to 82' is from the centerline of Pine. Mr. Beach replied in the affirmative. The site plan submitted does not reflect the shape of the property, but the case map does.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a **Minor Variance** of a yard abutting an arterial street from 85' to 82' from the centerline of Pine, finding the hardship to be the odd shape of the lot, on the following described property:

Part of Lot 12, all of Lot 13, Block 1, Hobbs Addition, part of 12 beginning at SE/c of Lot 12; thence N 20' along the E line of Lot 12; thence SW to the SW/c of Lot 12; thence along the S line of Lot 12 to the POB, City of Tulsa, Tulsa County, State of Oklahoma.



including: vacuums constructed with internal exhaust to limit the noise; a minimum of 10% landscaping of the net lot area; and lighting by shielded fixtures not to exceed 15' in height. He let it be known that the site plan is conceptual in some respects, and he asked that if the Board considers it to be an appropriate location for the use, to approve the site plan but give the applicant an alternative so that they can come back to the Board with a revised site plan as to the arrangement of the vacuum areas, and allow them to come back with a detailed landscape plan for the northwest corner.

**Comments and Questions:**

Mr. White asked why the vacuums were on the west instead of the east, to be farther away from the residential district. Mr. Johnsen replied that was one of the alternatives they wanted to submit.

**Interested Parties:**

**Bill Jerballa**, 9962 S. 79<sup>th</sup> E. Ave., submitted a packet of exhibits/petitions in opposition to the application. He pointed out a concern regarding wastewater discharge, stormwater pollution, increased traffic problems, security issues, noise, and loitering. He identified a traffic count of 38,400 on average, which is one of the highest for an intersection in south Tulsa. He stated that the neighborhood would prefer an office building with a garden and less nighttime traffic. He suggested a limitation of hours of operation, a 30' dense greenbelt on the north and west borders, a 12' privacy fence, maximum-security lights, and a study for stormwater management.

**Applicant's Rebuttal:**

Mr. Johnsen reminded the Board that the property would have to be platted before a building permit is issued and at that time, Stormwater Management would become involved. He noted that 101<sup>st</sup> is a planned arterial, which will be four lanes and may be five or six at the intersection with Memorial.

The Board discussion covered shielded lighting, proximity to an R district, access/auto headlights directed away from R district, and noise/location of the vacuums.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special Exception*** to allow an automobile wash in a CS-zoned district, per applicant's conditions submitted at meeting, and vacuums be located on east boundary line, 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, on the following described property:

W 165.02' of E 495.06' of S/2 S/2 SE SE, Section 23, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19048**

The applicant was not present. Mr. White suggested the case be tabled to the end of the agenda.

**Case No. 19049**

**Action Requested:**

Special Exception to expand an existing building. SECTION 1202.D. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Off-Street Parking and Loading Requirements – Use Unit 2; and a Variance of setback requirement of 85' from the centerline of East 51<sup>st</sup> Street South down to 75'. SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS, located 5115 E. 51<sup>st</sup> St. S.

**Presentation:**

**Richard Humiston**, 524 May Ave., Fort Smith, Arkansas, stated that he is an architect, retained by the applicant. He pointed out that opportunities for addition are limited except on the east side. The nursing home is filled to capacity with 94 beds and the proposed addition represents an increase of 24 beds.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special Exception*** to expand an existing building; and a ***Variance*** of setback requirement of 85' from the centerline of East 51<sup>st</sup> Street South down to 75', finding the existing building sets at that setback, on the following described property:

Lots 17 and 18, Canfield Subdivision, City of Tulsa, Tulsa County, State of Oklahoma, less a tract of land being a part of Lots 17 and 18, more particularly described as follows, to-wit: Beg. at the SW/c of said Lot 18; thence N along the W line of said lot, a distance of 22.41' to a point; thence S 66°42'20" E a distance of 19.60'; thence S 88°05'40" E a distance of 216.56' to a point; thence E a distance of 69.07' to a point on the E line of Lot 17; thence S along said E line of said Lot 17, a distance of 7.42' to the SE/c thereof; thence W along the S line of said Lots 17 and 18, a distance of 304.50' to the POB.

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**Case No. 19050**

**Action Requested:**

Minor Variance of existing encroachment of dwelling from the required 25' rear yard setback to 23'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 2522 S. Columbia Ave.

**Presentation:**

**Bryan C. McCracken**, 1201 E. 33<sup>rd</sup> St., came before the Board to present his case.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, “aye”; no “nays”; no “abstentions”; Perkins, Turnbo “absent”) to **APPROVE** a ***Minor Variance*** of an existing encroachment of dwelling from the required 25' rear yard setback to 23', finding the hardship is the shape of the lot, on the following described property:

Lot 8, Block 1, New Bedford Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19052**

**Action Requested:**

Special Exception to allow a 12' screening fence along Lewis Avenue. SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located NW of E. 45<sup>th</sup> Pl. & S. Lewis Ave.

**Presentation:**

**Joe Robson**, 6565 Timberlane, stated he is building a home on the subject property. He described a 20' drop in the elevation.

**Comments and Questions:**

Mr. White asked how high the fence is around the tennis court to get an idea of scale. Mr. Robson replied that it is about 14'. Mr. White asked about the height of the fence in comparison to the centerline of Lewis. Mr. Robson suggested it would be about five to six feet above the centerline of Lewis. Mr. White asked if it would be on the property line. He responded that it would.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special Exception*** to allow a 12' screening fence along Lewis Avenue, with the condition that at no point will the fence exceed 8' in height above the centerline of Lewis Ave., 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, on the following described property:

E/2 Lot 10, N/2 Lot 12, Block 1, Bolewood Acres, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19053**

**Action Requested:**

Special Exception to allow a mini-storage in an OL district. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS – Use Unit 16; a Variance to allow frontage for mini-storage on a non-arterial street. SECTION 604. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS; and a Variance to allow two-story building. SECTION 604. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS, located S & W of SW/c E. 61<sup>st</sup> St. & S. Sheridan.

**Presentation:**

**Ken Tricinella**, 6128 E. 61<sup>st</sup> St., stated his address is about a block from the subject property. He stated that he is co-owner of the property. He submitted conceptual drawings (Exhibit G-1) to the Board. Mr. Sanford is the architect involved in developing these drawings. He stated that the second story would be below the top of the hill. He described the mini-storage as a "conditioned storage" for medical and financial paperwork, with heat and air. He commented that he had no intent for outside storage but would not want to be limited from having outside storage.

**Comments and Questions:**

Mr. Beach noted that the plans appear to be for mini-storage and outside storage, that the parking was far more than necessary for mini-storage. He informed the applicant that if they want outside storage, it was not requested in the application and they would have to apply for that relief.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special***

**Exception** to allow a mini-storage in an OL district; a **Variance** to allow frontage for mini-storage on a non-arterial street; and a **Variance** to allow two-story building, per plan, finding the hardship to be the topography of the lot, on the following described property:

Lots 1 and 2, Block 2, Deborah Jean Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19056**

**Action Requested:**

Variance to allow required parking to extend to lots not containing use. SECTION 1301. GENERAL REQUIREMENTS and SECTION 1214.D. USE UNIT 14. SHOPPING GOODS AND SERVICES, Off-Street Parking and Loading Requirements and SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements – Use Unit 10 & 12; and a Special Exception to permit a parking lot in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; OR Alternatively, a Variance of required parking from 58 spaces to 28 spaces, located 1413 E. 15<sup>th</sup> St.

**Presentation:**

**Roy D. Johnsen**, 201 W. 5<sup>th</sup> St., Ste. 501, stated he represented Bret Rehorn. In 1983 there was no parking requirement for this property. In 1984 the ordinance was changed to meet the use unit specifications for off-street parking. The restaurant is non-conforming (Exhibit H-2), and can open now without any variances or special exceptions. He noted that it was not a typical single-family neighborhood, with the expressway on one side and CH/OL zoning along Peoria. The Cherry Street Plan described it as medium intensity residential use for redevelopment. This would also permit offices, where parking is a use permitted by right. In an RM-2 district, office and multifamily are considered equivalent intensities. He noted that from the infill study it was suggested that additional off-street parking be encouraged. A parking lot was approved twice in 1987 and 1993 with conditions for screening, but Chimi's did not follow through. The applicant submitted the following conditions (Exhibit H-1) to the Special Exception requested: 1) Restaurant use of the existing building (hereinafter the "Existing Building") located on the site described as: Lots 13, Block 6, Bellview Addition (hereinafter the "Building Site") shall be limited to 4900 square feet. 2) Not less than 28 parking spaces shall be maintained on the following described tract: Lots 14 and 15, Block 6, Bellview Addition (hereinafter the "Existing Parking Area") for the shared use of the tenants of the Existing Building. 3) Not less than 30 parking spaces shall be maintained on the following described tract: Lots 8 and 9, Block 6, Bellview Addition (hereinafter the "North Parking Area") and the use of the north parking area shall be limited to off-street parking, landscaping and screening. 4) The North Parking Area shall be screened as follows: a) A minimum landscaped

area of five feet shall be maintained along the north boundary and along the Rockford frontage excepting points of access and not less than 10% of the net area shall be landscaped; b) A six-foot masonry wall shall be constructed and maintained along the north boundary; c) a six-foot wood screening fence shall be constructed and maintained along the Rockford frontage excepting points of access; d) a new six-foot wood, screening fence shall be constructed along the east boundary of the following described tract: Lots 16 and 17, Block 6, Bellview Addition; 5) lighting within the north parking area shall be limited to wall-mounted shielded fixtures or shielded fixtures on light standards not exceeding six feet in height and shall be designed to direct light downward and away from adjoining residential property; 6) the trash receptacle area within the existing parking area shall be re-fenced with new materials; 7) development and use of the north parking area shall be in accordance with the submitted site plan. Mr. Johnsen pointed out that the church at 15<sup>th</sup> and Quaker has a parking area that extends farther north than the proposed parking in this application. A site plan, petitions and letters in support of the application (Exhibit H-3) were submitted to the Board.

#### **Comments and Questions:**

Mr. Cooper noted the site plan indicated a restaurant of 4900 square feet, and asked about additional seating. Mr. Johnsen replied that the floor area was the same now and the plan was to increase seating. He reminded the Board that the parking is based on floor area not occupancy. Upon reminder from Mr. Jackere, Mr. Johnsen withdrew the request for a Variance to allow the required parking to extend to lots not containing use and a Variance of required parking from 58 spaces to 28 spaces. The only request he asked for is a Special Exception to permit a parking lot in an RM-2 district on lots eight and nine.

Mr. Johnsen commented that the applicant has offered to put in lighting no higher than the wall or screening fences. He also stated that the applicant would put up new fencing around the dumpster.

Mr. White asked if they had considered a U-turn near the alley instead of using the alley. Mr. Johnsen responded that the alley is a dedicated public way and is the best location for the traffic going into the parking area, with less impact on the neighborhood.

#### **Interested Parties:**

**Nelson Dean**, 1728 S. Erie Ave., stated he was in favor of the application. He suggested that access be made to Rockford and it would reduce the parking on Rockford.

**Bridgett Silver-Neal**, 1427 S. Rockford Ave., stated that the Special Exception was still the same thing that was asked for in the first application. She indicated that the majority of the residents do not want the parking lot put in. She added that it was mentioned that the applicant had spoken with all of the neighbors, but he did not contact her prior to this meeting. She commented that the church parking lot



does not compare to a restaurant parking lot that stays open until 2:00 a.m. Thursday through Saturday, or possibly Sunday. She stated that churchgoers are not rowdy and disruptive to a neighborhood on Sunday morning. She added that she is not opposed to the restaurant, but to the additional parking lot. The properties on Rockford have been improved and the value has increased incredibly. Those properties are part of what make Cherry Street what it is. There are thirteen single-family homes compared to four small apartment complexes. The neighborhood has changed since the previous approvals for a parking lot on this property.

**Comments and Questions:**

Mr. White noted that the interested party had a point regarding the procedural aspect of this case. He asked if this was not a request for reconsideration of the application that was denied at the last meeting since he withdrew the two variances. Also, because the certificate of occupancy and zoning clearance permit, it is no longer a request for required parking but for desired parking. Mr. Johnsen responded that he believes that this is not the same application, in that it has been changed in the design of the parking area and new facts have been introduced. He noted the facts of non-conforming status, new site plan, new development standards, and new responses from the residents make this a application to be considered on it's own merits.

**Mark Hardy**, 1415 S. Rockford, expressed his concern that the parking on Rockford and Cherry Street is a problem. He stated that from noon to 10:00 p.m. the business would be a restaurant and from 10:00 p.m. to 2:00 a.m. it would be a bar. He objected to the problems they would deal with from bar patrons driving and parking at this location.

**Meg Walter**, 1428 S. Rockford, described the changes in the neighborhood and the attitude of the people who live there since the development and improvements that have come about. She stated her opposition to the application, and indicated that the on-street parking is not full all of the time.

**Lori Painter**, 1414 S. Rockford, stated she first signed a petition in favor of the application but after reconsideration decided she is opposed for the reasons as stated above.

**Steven Walter**, 1428 S. Rockford, noted that the residents in favor of the application are not present. He read a letter of opposition from J. Kemp-Randolph, 1419 S. Rockford (Exhibit H-4), with the same reasons as listed previously. He also pointed out that the owner of the property who would be financially responsible for the promises made by the applicant was not present at this hearing. The owner has not maintained the property previously, and Neighborhood Inspections found it in violation. He commented that the alley is narrow and he contended that the planners did not intend for the alley to become a thoroughfare for automobiles, especially in the early hours of the morning. He

suggested that the use for the alley was intended for the benefit of utilities and an easement for neighborhood, trash pickup and such. He indicated that it would be hazardous for bar patron traffic. He asked the Board if they denied the parking lot when it was required, why they would approve it when it is desired.

**Patricia Dickey**, 233 E. 27<sup>th</sup> Pl., with Cherry Street Business Association, stated they are in support of the application. She added that it is consistent with the old Cherry Street Comprehensive Plan.

One other letter of opposition was submitted to the Board (Exhibit H-4).

**Applicant's Rebuttal:**

Mr. Johnsen stated that after several studies by entities of sometimes competing interests were completed, the fundamental conclusion was that these areas need more parking. The subject property is vacant and non-productive. He stated that this application is in line with City planning for this location. He commented that it is not a matter of whether the parking area is desired or required but that it is preferred and helps the neighborhood to have adequate parking. He pointed out that people will use the parking that is available and the alley is an excellent and available access.

The Board discussed the aspects of the case. Mr. Cooper noted some of the negatives were: bumping the commercial use to the north; hours of use are of concern as being injurious to the neighborhood; lighting could be a problem to the neighborhood; probability of noise from the parking lot; and heavier alley access. He then listed a positive point that it would meet parking needs in the area and would benefit the neighborhood. Mr. Dunham commented that the main issue that concerns him is the things that occur during the hours when the restaurant quits being a restaurant and becomes a bar. Mr. White noted that the business will go in with or without the added parking lot, and the traffic would be on the street if not on the parking lot. He recognized that it is residential zoning and a parking lot would be injurious to the residential aspect of the neighborhood. He stated that the applicant has done all he can do but it is simply the wrong place.

**Board Action:**

On **MOTION** of **Cooper**, the Board voted 2-1-0 (Dunham, Cooper "aye"; White "nay"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a **Special Exception** to permit a parking lot in an RM-2 district with the conditions submitted by the applicant, with an amendment of item #4d that the fencing be a minimum of 6' to maximum 8'. The motion failed for lack of three affirmative votes. The **Special Exception** was **DENIED**.

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**Case No. 19059**

**Action Requested:**

Special Exception to permit a tent revival for ten days in the years of 2001, 2002, 2003 during the months of June, July or August. SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; and a Variance of the all-weather surface requirement for off-street parking. 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located NE/c of Pine and Yale.

**Presentation:**

**Anthony Smith**, 1602 N. Denver, came before the Board to present his case.

**Comments and Questions:**

Mr. White asked if this request is same as previous application including: health department approval, public address system inside the tent, no outside speakers, hours of operation 10:30 a.m. to 10:30 p.m. Mr. Smith responded that in the affirmative, mentioning there are two services, one in the morning and one at night.

**Interested Parties:**

There were no interested parties present who wished to speak.

**Board Action:**

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **APPROVE** a ***Special Exception*** to permit a tent revival for ten days in the years of 2001, 2002, 2003 during the months of June, July or August; and a Variance of the all-weather surface requirement for off-street parking, with conditions for health department approval, public address system inside the tent, no outside speakers, hours of operation 10:30 a.m. to 10:30 p.m.

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**Case No. 19048**

**Comments and Questions:**

Mr. Beach stated that Mr. Haslam, the applicant, was not present.

**Board Action:**

On **MOTION** of **Cooper**, the Board voted 3-0-0 (White, Dunham, Cooper, "aye"; no "nays"; no "abstentions"; Perkins, Turnbo "absent") to **CONTINUE** Case No. 19048 to the meeting on May 8, 2001.

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There being no further business, the meeting was adjourned at 5:28 p.m.

Date approved: 6/12/01

Monty Dubeau  
Vice Chair