

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 830
Tuesday, November 13, 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	Turnbo	Beach	Boulden, Legal
Cooper		Butler	
Perkins			
White, Chair			

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Wednesday, November 7, 2001, at 12:06 p.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 1:00 p.m.

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Case No. 19232

Action Requested:

Special Exception of the required 110% setback from an O zoned district from 110' to 7'6" on the north and 35'0" on the east for a monopole cell tower 100' in height, located NE/c E. 21st St. & S. Columbia.

Presentation:

Mr. Beach announced that the applicant, **Dan Sullivan**, requested a continuance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19232 to the meeting on November 27, 2001.

Case No. 19240

Action Requested:

Special Exception to permit cellular telephone antennae and supporting structure to be affixed to an existing electrical utility monopole 75' in height extending the height of the supporting structure to 82' with antennae extending 3' above the supporting structure; a Special Exception to delete the requirement of security fencing of the cellular telephone tower; and a Special Exception to modify the setback of the cellular telephone tower from residentially zoned lots from 91.5' to 42'.

Presentation:

Mr. Beach announced that the notice was flawed and a notice on Case No. 19240 for November 27, 2001 has been sent out and the case could be stricken from the agenda.

Case No. 19229

Action Requested:

Approval of an amended site plan to relocate manufactured home in an AG zoned district.

Presentation:

Mr. Beach announced that Case No. 19229 was withdrawn.

MINUTES:

On **MOTION** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** the Minutes of October 9, 2001 (No.828).

On **MOTION** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** the Minutes of October 23, 2001 (No.829).

UNFINISHED BUSINESS

Case No. 19216

Action Requested:

Request for refund.

Presentation:

Mr. Beach stated that staff recommends a \$175.00 refund based on the fact that time and resources had been spent, between the time the case was filed and the withdrawal request.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a partial refund of \$175.00.

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NEW APPLICATIONS

Case No. 19223

Action Requested:

Variance of minimum required front yard setback of 35' down to 25'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of rear yard setback of 25' down to 22'. SECTION 403. BULK AND

AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Special Exception to permit a 6' wall in the required front yard. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located 3406 S. Delaware.

Presentation:

Juliana Hakman, 2230 E. 37th, stated they propose to build additions to their home and to switch the front and back yards. They are trying to avoid cutting down large trees in the yard. She explained there has been an extenuating delay in the building plans. She pointed out the setback variance requested to build a wall, and the corner of the garage that encroaches on the setback line. They also desire to build a wall in the front yard of six feet in height instead of 4 feet.

Comments and Questions:

Mr. White asked if Ms. Hakman had spoken with any of the neighbors about this application. She replied that she has spoken with several people. She indicated that the opposition was to the delay in the project rather than the project itself. Ms. Perkins asked for a projected timetable. She responded it should take about six months.

Interested Parties:

Jane Jergins, 3303 S. Delaware, stated her opposition to this application. She pointed out that a four to six-foot wall would obstruct the view of a three-way intersection at 34th St. and Delaware. She stated there has never been a car accident at this intersection and she believes it is because of the good visibility. She indicated the wall would not be in keeping with the neighborhood with large lots and no walls. She mentioned that the applicant plans to put in a pool in the front yard and there is not enough room for it. She stated that all of the neighbors within 300' of the subject property are opposed to the wall with concern for safety at the intersection.

Comments and Questions:

There was much discussion with the Board regarding which yards are front or back and the setback measurements.

Interested Parties:

Rod Baker, 3424 S. Delaware, stated that the applicant has to show hardships and she has only shown self-imposed hardships.

Steve Bradshaw, 2675 E. 33rd Pl., submitted petitions with signatures (Exhibits A-5). He stated that the subject lot is about three feet above the street level. He repeated objection to a wall that would obstruct the view for traffic.

Philip Teeter, 3450 S. Delaware, stated this application is not allowed by the covenants. Mr. White informed him that the Board does not deal with matters of covenant, that is a civil matter for court.

Tim Nelson, 2735 E. 34th, stated he is opposed to a pool in the front yard. He spoke his objection to the wall for privacy at a pool.

Applicant's Rebuttal:

Ms. Hakman responded that this is the first time she has heard any objection to the proposed wall, even though she has talked with Ms. Jergins and others before. She stated that they have taken the neighborhood into consideration and they rejected the original plans for the wall because it would have been too far out and obstruct the view for traffic. The way the house was built does not give a clear front or back yard. She stated that the hardships are caused by the situation of the existing structure on the property.

Comments and Questions:

Mr. White tried to determine the placement of the wall, the location of the proposed pool, the space around the pool. Ms. Hakman could not answer specifically. Mr. Beach reminded the Board that pools are not allowed in the front yard, and she is not advertised for relief from that requirement. The Board discussed the options and requirements for front yard, rear yard and side yard per the Zoning Code. Mr. Beach informed the Board that the case was advertised properly. He added that the only thing missing was the pool and he was not informed of the pool.

Councilor Brady Pringle asked to speak. He indicated that Interested Parties want a continuance. He mentioned that he has received numerous calls regarding this property because of the delay in construction. He added that he used to live in the neighborhood. He stated that common sense indicates 34th Street is the front of the house. He realized that the address has been changed.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of minimum required front yard setback of 35' down to 25' from the property line; a Variance of rear yard setback of 25' down to 22', strictly for the corner of the garage, per plan as submitted today, finding the hardship to be the existing structure and the shape of the lot; and to **DENY** a **Special Exception** to permit a 6' wall in the required front yard, finding it would not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 1, Block 7, Timberland, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19224

Action Requested:

Special Exception for church and church accessory uses. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located SW/c W. 39th St. & 28th W. Ave.

Presentation:

Byron Salsman, 2618 W. 45th St., stated he was representing the Redfork Baptist Church as the architect and as a member. He stated that the church owns the south forty feet of Lot 2, and recently purchased the balance of Lot 2 and Lot 1. They propose to build a bus barn. They plan to use the existing house on the property for temporary storage during construction. They are removing some smaller existing structures. They plan to keep the 12' x 12' existing storage building and the structure in the southwest corner. A site plan (Exhibit B-1) was submitted to the Board.

Comments and Questions:

Mr. Cooper asked if any of the property would be used for parking. Mr. Salsman replied that it would not be used for parking as they already have adequate paved parking. Mr. Beach informed the Board that a tie-agreement would be recommended to prevent a bus barn from being a separate principle use. Mr. Salsman stated they would be in favor of the tie-agreement.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a ***Special Exception*** for church and church accessory uses, per plan, conditioned upon a tie-agreement between the subject property and the church property, on the following described property:

Lot 1 - 2, Block 39, Red Fork, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19225

Action Requested:

Variance of side yard setback from 15' down to 5' in an RE district. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6, located 2232 E. 26th St.

Presentation:

Bob Winchester, 2232 E. 26th St., stated the original garage was converted to a living space. They proposed to build a garage on the east. They have discussed it with their neighbors. The site plan was submitted (Exhibit I-1).

Comments and Questions:

Mr. Dunham noted the staff have asked for an explanation of he could not move the location south and east to connect to the house and meet the required yard. Mr. Winchester responded that could not be accomplished because of Crow Creek. Mr. Cooper verified what the applicant stated about the topography.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of side yard setback from 15' down to 5' in an RE district, per plan, finding the hardship to be the existing setbacks of this nature are common in this neighborhood, and the topography of the lot would prevent locating the garage elsewhere, on the following described property:

Lot 3 and E 30.00' of Lot 4, Block 2, Forest Hills Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19226

Action Requested:

Special Exception to permit a manufactured home in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Variance of the one-year time limit to permit on a permanent basis. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located approx. 2300 Block of N. Canton Ave.

Presentation:

Gary Linder, 12473 E. 13th St., stated they propose to move a manufactured home on the subject property. He submitted an amended site plan and photographs (Exhibits C-1,2) of other manufactured homes in the neighborhood. He has plans for a permanent foundation, and an asbestos roof.

Comments and Questions:

Mr. White asked if it is a new structure, to which he replied in the affirmative.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Special Exception** to permit a manufactured home in an RS-3 district finding 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; and a **Special Exception** of the one-year time limit to permit a 100-year time limit, per the amended plan submitted today, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 3 - 4, Block 1, S. R. Lewis Addition to the Town of Dawson, now a part of the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19227

Action Requested:

Variance of required yard abutting a public street from 35' to 27' on East 41st Street. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; and a Variance of required yard abutting a public street from 35' to 20' on Evanston Avenue. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 3944 S. Evanston Ave.

Presentation:

David Short, 3944 S. Evanston, stated he is the owner of the home. The permit office told him that the property is legal non-conforming. He proposes to build a porch onto the front of the house on both sides. He stated that the neighbors are in support of the improvement. He plans to move the driveway also. A site plan (Exhibit D-1) was submitted.

Comments and Questions:

Mr. White verified with the applicant where he plans to add the porch and driveway.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of required yard abutting a public street from 35' to 27' on East 41st Street; and a **Variance** of required yard abutting a public street from 35' to 20' on Evanston Avenue, per plan, finding the hardship to be the existing condition and is improving a non-conforming situation, on the following described property:

Lot 7, Block 25, of Blocks 19-26 of the Ranch Acres Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19228

Action Requested:

Variance of lot width from required 200' to 135' on Tract A and 100' on Tract B. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 6; a Variance of lot area from 2 acres to 1.89 acres on Tract A. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT; and a Variance of land area per dwelling unit from 2.2 acres to 2.0 acres on Tract A to permit a lot split. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT, located 7507 S. Elwood Pl.

Presentation:

Ruby Prince, 7507 S. Elwood, stated she has five acres and would like to sell the back two and one-half acres and build a roadway.

Interested Parties:

Jack Heath, 7505 S. Elwood Ave., stated he did not object to the application. He did want to contest the accuracy of the new survey (Exhibit J-1). He was concerned that it infringes on his property.

Applicant's Rebuttal:

Ms. Prince acknowledged that the survey was not totally accurate.

Comments and Questions:

Mr. White commented that the Board makes a decision on the legal description. Mr. Beach provided information regarding division of land for a lot-split.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE Variance** of lot width from required 200' to 135' on Tract A and 100' on Tract B; a **Variance** of lot area from 2 acres to 1.89 acres on Tract A; and a **Variance** of land area per dwelling unit from 2.2 acres to 2.0 acres on Tract A to permit a lot split, per survey submitted, finding the hardship to be the configuration of the lot, on the following described property:

The S/2 S/2 N/2 SW/4 NW/4 of Section 12, T-18-N, R-12-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19230

Action Requested:

Special Exception to allow Use Unit 15 (to test fishing rods and reels for Zebco) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located 9810 E. 42nd St. S.

Presentation:

Victor Johnson, 9726 E. 42nd St., Ste. 100, stated he asked the marketing director to present the case. A brochure of Tech-Ridge Park (Exhibit E-1) was submitted to the Board.

Patrick Coates, 2808 E. 27th Pl., stated he is the Marketing Director at the park where the subject property is located. He stated they were discussing the possibility of Zebco moving into one of their office buildings in Tech-Ridge Park. Zebco would be the only tenant in the Seminole building, which backs up to the Broken Arrow Expressway. He stated the work would include testing rods and reels, research and development, paint booth, and 95% general office use.

Comments and Questions:

Mr. White questioned Mr. Beach about the paint booth regarding Code requirements. Mr. Beach replied that prohibition to paint booths is for automobiles in a use unit 17. Mr. Cooper asked if all of the 5% of the use unit 15 is indoors. Mr. Coates informed the Board that plan to build a casting pond about four feet deep, and 20 by 40 yards for testing the rods and reels, that would be fenced and lighted. He stated that they would need an overhead door

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Special Exception** to allow Use Unit 15 (to test fishing rods and reels for Zebco) in a CS zoned district, on the conditions indoor testing will not exceed more than 20% of the building, and testing permitted on the pond to be constructed outdoors, on the following described property:

A part of Lot 1, Block 2, Koger Executive Center, City of Tulsa, Tulsa County, State of Oklahoma, and being more particularly described as follows, to-wit: Beg. at the mutual property corner of Lots 1 and 2, Block 2, Koger Executive Center; thence S 62°05'00" E along the Sly right-of-way line of East 42nd Street South, a distance of 138.46'; thence along a curve to the left, with a central angle at 31°49'00" and a radius of 225.00' a distance of 124.94'; to a point; thence S 08°54'00" E a distance of 83.05'; thence S 39°50'00" E a distance of 244.93'; thence S 52°33'00" W a distance of 67.98'; thence S 22°55'00" W a distance of 57.00' to a point on the Sly line of Koger Executive Center; thence N 67°05'00" W, along the Sly line of Lot 1, Block 2, Koger Executive Center, said Sly line being the Nly right-of-way line of the Broken Arrow Expressway, to the mutual rear property corner of Lots 1 and 2, Block 2, Koger Executive Center; thence N 22°55'00" E a distance of 265.00' to the POB.

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Case No. 19231

Action Requested:

Variance of required 200' setback from an R district to 139'. SECTION 1221.C.2.c. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs – Use Unit 14, located 7712 E. 71st St.

Presentation:

Regina Amini, 7106 E. 76th, stated she owns Amini's Galleria and they were seeking to obtain a new sign.

Mir Khezri, 1801 N. Willow Ave., Broken Arrow, stated there is an existing sign on the property that does not look good.

Mr. White out at 2:50 p.m.

The owner wants to replace it with a sign (Exhibit F-1) as submitted to the Board. There is an electronic variable message board included on the sign. He mentioned that the residential neighborhood would not be able to see the message board.

Mr. White returned at 2:52 p.m.

During last winter the sign requiring manually placed letters could not be changed because the letters were frozen to the sign.

Comments and Questions:

Mr. Dunham asked for the height of the sign. Mr. Khezri replied 28' tall. Mr. Dunham stated the maximum height allowed is 25'. Mr. Khezri responded that there is an exception, stating Title 42, Section 1221.E.1, permits a height of 25', ...unless the sign is setback one foot for each foot of height exceeding 25'. He added that they plan to setback the sign for the added height. He provided a copy of a letter (Exhibit F-2) from the sign inspector to the Board. Mr. Cooper asked for the hardship. Mr. Khezri stated that the sign is located in the largest commercial district and unfortunately has residential zoning right across the street. He felt that the new sign would be a great improvement over the old sign. Mr. Beach asked for the height of the wall around the residential area. Mr. Khezri estimated the wall to be eight feet in height.

Mr. Cooper out at 3:01 p.m. and returned at 3:03 p.m.

Mr. Khezri explained that the electronic sign is three feet by ten feet. Ms. Perkins asked if the electronic sign would just have two lines or more for messages. Mr. Khezri responded that the only thing that would scroll is within the three by ten foot electronic sign, and everything else is stationary.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 3-1-0 (White, Dunham, Cooper "aye", Perkins "nay", no "abstentions", Turnbo "absent") to **APPROVE** a ***Variance*** of required 200' setback from an R district to 139', per plan, on the conditions of the sign inspector's specifications, namely that it not exceed 202 square feet, a 66' setback from the property line, that the area for variable message sign not exceed three feet by ten feet, 70° horizontal and 30° vertical, finding the hardship to be that 71st St. is a unique commercial street and the only residential property affected by this is the property to the north with an eight foot fence around it, and the variable message board is less square footage than the existing sign, on the following described property:

Lot 1, Block 1, Home Improvement Center Addition, City of Tulsa, Tulsa County,
State of Oklahoma.

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Case No. 19233

Action Requested:

Variance of Section 403A as to the height of a portion only of four of the eleven buildings comprising the Palazzo-Tulsa Apartment Complex. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 8, located 660' W of NW/c E. 51st St. & 145th E. Ave.

Presentation:

William B. Jones, 15 E. 5th St., Suite 300, stated he is the attorney for the applicant. His client bought the subject property, planned and built the apartment complex after review and approval of the plans by the City of Tulsa. He stated that certificates of occupancy were issued after City of Tulsa agreed that it met requirements of the zoning code. In September this year the permanent lender required a zoning endorsement to the title policy. It was discovered that the three-story buildings exceeded the 35' height limitation for a straight RM-1 building. The underwriter for the title insurance company required that an application be made for a variance to this code. Mr. Jones noted that the other three-story apartment buildings in the city were located in a planned unit development where the height limit is higher. He indicated that this case would not set a precedent because there are other three-story complexes in the city that exceed 35' in height. He noted there are no single-family homes around this property and it would not be injurious to the neighborhood. A site plan (Exhibit K-1) was submitted to the Board.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of Section 403A as to the height of a portion only of four of the eleven buildings comprising the Palazzo-Tulsa Apartment Complex, per plan, finding it is the same plan approved by the City of Tulsa, and this is a typical development for this type of project, and if there was an error made it was probably made by the City inspection staff, on the following described property:

Lot 1, Block 1, Palazzo-Tulsa Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19234

Action Requested:

Special Exception to allow a Use Unit 17 (automobile rental service) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Variance of the total required parking spaces for center to use community parking during hours not utilized by the comedy club. SECTION 1217.D. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Off-Street Parking and Loading Requirements, located SW/c E. 69th St. S. & S. Lewis.

Presentation:

Sherry Johnson, 3301B S. Meridian, Oklahoma City, Oklahoma, stated she was representing Avis Rent A Cars. The parking space allotment shows 207 spaces are available without the Tulsa Comedy Club, and adding the club would be 253 spaces. She stated she has obtained approval from the landlord of the Spectrum Shopping Center and the Tulsa Comedy Club since they are not open the same hours as the club.

Comments and Questions:

Mr. Dunham asked how many cars would be parked at this site. Ms. Johnsen stated they shuttle cars to and from the airport, and there would probably be no more than ten cars at a time. She informed the Board that any maintenance would be handled from the airport location. Mr. Dunham asked how many employees would be at this location. She stated these types of locations have one full-time employee and some part-time employees. He also asked about the hours of operation. Ms. Johnson stated the hours would be Monday through Friday, 8:00 a.m. to 6:00 p.m., and Saturday and Sunday, 9:00 a.m. to 1:00 p.m. She added that the club hours are 7:00 p.m. to 1:00 a.m. Wednesday through Saturday.

Interested Parties:

Steve Schuller, 500 OneOk Plaza, 100 W. 5th St., stated he was there as attorney for Tile Stone Distributors across 69th St. His client is opposed to the application because of the heavy traffic and safety hazards. He stated there is a reason for

the zoning code requirement regarding automotive uses in a CS district, and it is because of the additional automotive traffic caused by those uses. He noted that no hardship has been shown for a more than 20% reduction in the number of parking spaces. No unique or peculiar circumstances were shown that are not generally applicable to the surrounding businesses. He indicated that this would increase traffic congestion with the rental cars shuttled back and forth to the airport, employee cars, and customer cars. He considered this a detriment to the public good and would be further injurious to the neighborhood. He asked that if the Board was inclined to approve the application that they require a condition that occupancy under a special exception and variance not be permitted unless and until the City of Tulsa install signal lights at 69th and Lewis to eliminate the traffic hazard.

Steve Haas, 2315 E. 69th St., expressed concern that the Spectrum parking lot cannot hold all of the needed parking when the Tulsa Comedy Club has a big turnout.

See sign-in sheet (Exhibit L-1).

Applicant's Rebuttal:

Ms. Johnson stated that Radio Shack has been running a business in this location with customer coming and going. She reminded the Board that it is a retail shopping center, where traffic in and out is expected throughout the day.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Special Exception** to allow a Use Unit 17 (automobile rental service) in a CS zoned district, finding 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; and a **Variance** of the total required parking spaces for center, on the conditions that an automobile rental service would have no more than ten cars on the lot for rental at any one time; that days and hours of operation be Monday through Friday 8:00 a.m. to 6:00 p.m, Saturday and Sunday 9:00 a.m. to 1:00 p.m., finding the literal enforcement of the code would create a hardship for this property because the major parking user is a use that does not open until 6:30 p.m. and if that condition should ever cease to be, the user of that space would have to come before the Board of Adjustment for approval for a parking variance, on the following described property:

Lot 1, Block 2, Lewis Village, and the N 195.00' of the SE/4 SE/4 SE/4 of Section 6, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19235

Action Requested:

Approval of an amended site plan to add a 40' x 40' x 12' storage building.
SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS –
Use Unit 5, located 10310 S. Sheridan.

Presentation:

Jeff Steen, 404 W. Broadway, Broken Arrow, stated he was representing South Tulsa Baptist Church.

Comments and Questions:

Mr. White determined that the applicant needed to inform the interested parties about the proposal out side of the hearing before it is heard. The case was tabled until later in the meeting.

A letter of opposition (Exhibit G-1) was submitted to the Board.

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Case No. 19236

Action Requested:

Variance of the required front yard in an RM-2 district from 10' to 9' for the existing apartment structure. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 8; a Variance of the (west) required side yard in an RM-2 district from 10' to 2' for the existing southwesterly portion of the existing apartment structure, and from 10' to 5' for the remainder of the existing apartment structure. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the land area requirement in an RM-2 district from 16,000 sq. ft. to 15,000 sq. ft. for the existing apartment structure and its' associated property areas consisting of Lots 16 and 17. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the livability space requirement in an RM-2 district from 2,000 sq. ft. to 1,100 sq. ft. for the existing apartment structure and its' associated property areas consisting of Lot 16 and 17. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance in the 40' setback requirement for parking areas of six or more spaces to 25' from the centerline of E. 41st Pl. S. for the existing southernmost accessory parking stalls. SECTION 1302. SETBACKS; and a Special Exception to permit required off-street parking to be located on a lot other than the lot containing the principal use. SECTION 1301.D. GENERAL REQUIREMENTS, located S & E of SE/c E. 41st St. & S. Peoria.

Presentation:

Mr. Dunham determined from Darin Akerman that this case is to improve existing conditions, with no intention to add on or change the existing conditions. Mr. Akerman responded that they are clearing the title on the property. A site plan was submitted (Exhibit M-1).

Darin Akerman, 6111 E. 32nd Pl., stated he is with Sizemore, Weisz and Associates, representing Coury Properties, owner of the subject property.

Ken Smith, 4554 S. Harvard, with Riggs, Abney, stated he was representing the current property owner, purchased from Coury Properties.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a ***Variance*** of the required front yard in an RM-2 district from 10' to 9' for the existing apartment structure; a ***Variance*** of the (west) required side yard in an RM-2 district from 10' to 2' for the existing southwesterly portion of the existing apartment structure, and from 10' to 5' for the remainder of the existing apartment structure; a ***Variance*** of the land area requirement in an RM-2 district from 16,000 sq. ft. to 15,000 sq. ft. for the existing apartment structure and its' associated property areas consisting of Lots 16 and 17; a ***Variance*** of the livability space requirement in an RM-2 district from 2,000 sq. ft. to 1,100 sq. ft. for the existing apartment structure and its' associated property areas consisting of Lot 16 and 17; a ***Variance*** in the 40' setback requirement for parking areas of six or more spaces to 25' from the centerline of East 41st Place South for the existing southernmost accessory parking stalls, finding it will not cause substantial to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan; and a ***Special Exception*** to permit required off-street parking to be located on a lot other than the lot containing the principal use, per plan, finding 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, and finding this is to improve existing conditions, that no new construction is planned, these are basically non-conforming uses that have been present for a long time and to enforce the code at this time would create a hardship for the property, on the following described property:

Lots 16 and 17, Block 1, Jennings-Robards Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

Case No. 19237

Action Requested:

Variance of the (east) side yard requirement in an RM-2 district from 10' to 4' for the easternmost existing apartment structure located upon Lots 5 and 6. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 8; a Variance of the rear yard requirement in an RM-2 district from 10' to 0' for the easternmost existing apartment structure located upon Lots 5 and 6. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the (west) side yard requirement in an RM-2 district from 10' to 5' for the existing apartment structure located upon Lots 6 and 7. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the land area requirement in an RM-2 district from the 83,800 sq. ft. to 76,506 square ft. for the existing apartment structures located upon Lots 1 - 7 and inclusive of the existing two bedroom single-family dwelling unit located upon Lot 8. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the (east) side yard requirement from 10' to 1.5' and the (north) rear yard requirement from 10' to 2' for the accessory concrete block garage structure located upon Lot 8. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance in the 40' setback requirement for parking areas of six or more spaces to 35' from the centerline of East 41st Street South for the existing parking stalls located along the northern property lines of Lots 1 – 5. SECTION 1302.B. SETBACKS; a Variance in the 40' setback requirement for parking areas of six or more spaces to 30' from the centerline of South Quincy Avenue for the existing southernmost parking stall located west of the existing apartment building located upon Lots 1 and 2 and part of Lot 3. SECTION 1302.B. SETBACKS; a Variance in the 40' setback requirement for parking areas of six or more spaces to 25' from the centerline of East 41st Place South for the existing parking stalls located south of the existing apartment structures located upon Lots 6 and 7. SECTION 1302.B. SETBACKS; a Variance in the 92 parking space requirement to 52 parking spaces for the existing apartment structures and the single-family dwelling unit located upon Lots 1 - 8. SECTION 1208.D. USE UNIT 8. MULTIFAMILY DWELLING AND SIMILAR USES, Off-Street Parking and Loading Requirements, located SE/c E. 41st St. & S. Quincy.

Presentation:

Darin Akerman, 6111 E. 32nd Pl., stated he is with Sizemore, Weisz and Associates, representing Coury Properties, owner of the subject property.

Ken Smith, 4554 S. Harvard, with Riggs, Abney, stated he was representing the current property owner, purchased from Coury Properties. A site plan was provided (Exhibit N-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of the (east) side yard requirement in an RM-2 district from 10' to 4' for the easternmost existing apartment structure located upon Lots 5 and 6; a **Variance** of the rear yard requirement in an RM-2 district from 10' to 0' for the easternmost existing apartment structure located upon Lots 5 and 6; a **Variance** of the (west) side yard requirement in an RM-2 district from 10' to 5' for the existing apartment structure located upon Lots 6 and 7; a **Variance** of the land area requirement in an RM-2 district from the 83,800 sq. ft. to 76,506 square ft. for the existing apartment structures located upon Lots 1 - 7 and inclusive of the existing two bedroom single-family dwelling unit located upon Lot 8; a **Variance** of the (east) side yard requirement from 10' to 1.5' and the (north) rear yard requirement from 10' to 2' for the accessory concrete block garage structure located upon Lot 8; a **Variance** in the 40' setback requirement for parking areas of six or more spaces to 35' from the centerline of East 41st Street South for the existing parking stalls located along the northern property lines of Lots 1 - 5; a **Variance** in the 40' setback requirement for parking areas of six or more spaces to 30' from the centerline of South Quincy Avenue for the existing southernmost parking stall located west of the existing apartment building located upon Lots 1 and 2 and part of Lot 3; a **Variance** in the 40' setback requirement for parking areas of six or more spaces to 25' from the centerline of East 41st Place South for the existing parking stalls located south of the existing apartment structures located upon Lots 6 and 7; and a **Variance** in the 92 parking space requirement to 52 parking spaces for the existing apartment structures and the single-family dwelling unit located upon Lots 1 – 8, per plan, finding it will not cause substantial to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, and finding this is to improve existing conditions, that no new construction is planned, these are basically non-conforming uses that have been present for a long time and to enforce the code at this time would create a hardship for the property, on the following described property:

Lots 1 - 8, Block 2, Jennings-Robards Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19238

Action Requested:

Variance of the front yard requirement in an RM-2 district from 10' to 6' for the most easterly existing apartment structure located upon Lots 4 and 5 and 8' for the most northwesterly existing apartment structure located upon Lots 2 and 3 and part

of Lot 1. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 8; a Variance of the land area requirement in an RM-2 district from the 51,200 sq. ft. requirement to 46,267 sq. ft. for the existing apartment structures and their associated property areas consisting of Lots 1 - 5 and the easterly 25' of vacated South Quincy Avenue. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance of the single-story limitation to multifamily dwellings which are within 50' of an RE or RS district to allow for the existing two-story apartment structures located upon Lots 2 - 5 and part of Lot 1. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Variance in the 54 parking space requirement to 53 parking spaces for the existing apartment structures located upon Lots 1 – 5. SECTION 1208.D. USE UNIT 8. MULTIFAMILY DWELLING AND SIMILAR USES, Off-Street Parking and Loading Requirements; a Variance in the 40' setback requirement for parking areas of six or more spaces to 25' from the centerline of East 41st Place South for the existing northernmost parking stalls located upon Lot 1 and 5 and the easterly 25' of vacated Quincy Avenue. SECTION 1302.B. SETBACKS, located S & E of SE/c E. 41st St. & S. Quincy.

Presentation:

Darin Akerman, 6111 E. 32nd Pl., stated he is with Sizemore, Weisz and Associates, representing Coury Properties, owner of the subject property.

Ken Smith, 4554 S. Harvard, with Riggs, Abney, stated he was representing the current property owner, purchased from Coury Properties. A site plan was submitted (Exhibit 0-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of the front yard requirement in an RM-2 district from 10' to 6' for the most easterly existing apartment structure located upon Lots 4 and 5 and 8' for the most northwesterly existing apartment structure located upon Lots 2 and 3 and part of Lot 1; a **Variance** of the land area requirement in an RM-2 district from the 51,200 sq. ft. requirement to 46,267 sq. ft. for the existing apartment structures and their associated property areas consisting of Lots 1 - 5 and the easterly 25' of vacated South Quincy Avenue; a **Variance** of the single-story limitation to multifamily dwellings which are within 50' of an RE or RS district to allow for the existing two-story apartment structures located upon Lots 2 - 5 and part of Lot 1; a **Variance** in the 54 parking space requirement to 53 parking spaces for the existing apartment structures located upon Lots 1 - 5; and a **Variance** in the 40' setback requirement

for parking areas of six or more spaces to 25' from the centerline of East 41st Place South for the existing northernmost parking stalls located upon Lot 1 and 5 and the easterly 25' of vacated Quincy Avenue, per plan, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, and finding this is to improve existing conditions, that no new construction is planned, these are basically non-conforming uses that have been present for a long time and to enforce the code at this time would create a hardship for the property, on the following described property:

Lots 1 - 5, Block 3, Jennings-Robards Addition and the E 25' of vacated S. Quincy Ave. lying W of and adjacent to Lot 1, Block 3, Jennings-Robards Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19239

Action Requested:

Variance of required off-street parking from 47 spaces to 18 spaces. SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements; and a Special Exception to allow required parking to be located on a lot other than the principal use lot. SECTION 1301. GENERAL REQUIREMENTS – Use Unit 12, located S of SW/c E. 17th St. & S. Boston.

Presentation:

Roy D. Johnsen, 201 W. 5th St., Suite 501, stated he was representing the Loft of Tulsa, LLC, owned by Pastor Arthur and his wife. He explained they propose to build a coffee house on the subject property and the only place in the code it seems to fit is as a coffee shop. He stated that under the restaurant classification in the CH zoned district, the parking requirement is one space per 100' of space occupied, which would mean 20 spaces for this project. Mr. Johnsen pointed out the unique circumstances in the near downtown area where a CH zone is within a mixed use of office, entertainment facilities, and multi-family dwellings. He described the coffee house called The Loft, will have no alcohol, no smoking, and would be designed for young adults for entertainment. The difference in the parking need will be eleven spaces. Mr. Johnsen mentioned a lot across the alley to the west that has ten spaces, owned by the same owner of the building. He pointed out that if the Board granted the special exception to permit the use of those spaces and grandfather the one for 225 requirement it would only be one space difference. The existing building has been there for more than fifty years. He felt his client would be an excellent tenant, and it would be an opportunity to use vacant space in the downtown area without detriment to any other properties. His client contacted a number of other neighbors in the area and all indicated support except for Mr. Pinkerton, who owns a building immediately to the north and occupies as a law office. Mr. Johnsen stated his client is willing to accept some

conditions pertaining to the hours of operation. They propose morning hours from 6:30 a.m. to 9:30 a.m. on Monday through Saturday. He indicated that two restaurants, one of which is immediately adjacent to the subject property, are not open those hours. The owner of Steam Roller Blues has verbally agreed to The Loft customers using their parking lot. The evening hours proposed would be 5:30 p.m. to 11:00 p.m. Sunday through Thursday and 5:30 p.m. to 1:00 a.m. on Friday and Saturday. He stated the hours would not conflict when there are currently parking problems on other properties. It is a hardship that the ordinance has changed, properties in a near downtown area that have been grandfathered, and mixed uses. Mr. Johnsen submitted photographs (Exhibit H-1) to the Board.

Comments and Questions:

Mr. Dunham verified the days and hours of operation as stated above and that no alcoholic beverages would be served. Mr. Johnsen also mentioned that it would not be a full restaurant, but specialty coffees, bagels, and such would be served. Mr. Cooper asked if there is a tie-agreement with the lot in the back and the subject property, and if not would he object to one. Mr. Johnsen stated the same person owns both properties, and the applicant would not object to a tie-agreement.

Interested Parties:

Jim Pinkerton, 1502 S. Boulder, stated his concern regarding the shortage of parking. The building on the subject property has four different businesses and has eleven parking places. Two of the businesses are a cleaners and a hair salon. He stated that he is concerned about the morning hours the most. He stated the one neighboring business pays him for two parking spaces because the employees could not find a place to park when they came to work in the morning. He already has a problem with customers for the Steam Roller Blues parking in his lot.

Applicant's Rebuttal:

Mr. Johnsen reminded the Board that the vacant lot of the building owner is just behind the building and not a block away. The restaurant parking lot next door is not full in the mornings. He suggested that a lunchtime business would cause more spill over parking because the other two restaurants have lunchtime business. He pointed out to the Board that on the backside of the buildings on the east side of Boston is an alley to a large parking lot, plus a number of those businesses have parking in the rear. The construction company across the street, auto repair shop, and the two restaurants do not object to this application.

Comments and Questions:

Mr. Cooper asked about signage to indicate where customers can park. Mr. Johnsen replied they had not planned for parking signs nor did they have a contract for parking at the Steam Roller Blues. Mr. Dunham noted that Mr. Pinkerton already has a problem with parking in his lot and the coffee house is not open yet. Mr. White asked if the other three occupants would be in the building.

Mr. Johnsen replied that the hair salon does not have morning hours. The cleaners will be there and the fourth space is vacant. Mr. Cooper asked Mr. Johnsen to repeat the hardship. Mr. Johnsen replied that the near downtown has unusual and peculiar facts, that the street system is not the typical residential blocks, office use without nighttime use, substantial on-street parking,

Mr. Pinkerton was also given a few more minutes to speak. He pointed out that the lot with ten extra spaces requires going through the restaurant parking lot, down the alley, and walk all of the way around the building. He indicated that his lot would be more convenient. He stated that they are debating the psychology of what people will do, yet he sees people park in his lot and walk around to the shopping center all of the time. Mr. Cooper asked if there were signs directing customers to park in the Steam Roller's parking lot, did he think that would make a difference. Mr. Pinkerton responded that he did not think it would help.

Board Action:

On **Motion** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a ***Variance*** of required off-street parking from 47 spaces to 18 spaces; and a ***Special Exception*** to allow required parking to be located on a lot other than the principal use lot, finding the hardship is the nature of the neighborhood and the traffic use patterns of the various establishments, with the conditions for a tie-agreement between this lot and the lot to the west, limit the hours of the coffee shop from Sunday through Thursday, 5:30 p.m. to 11:00 p.m., Friday and Saturday 5:30 p.m. to 1:00 a.m., on the following described property:

Lots 1 and 2, and Lot 12 less and except the S 5' thereof of Lot 12, Block 2, Stutsman Addition, City of Tulsa, Tulsa County, State of Oklahoma.

On **Motion** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** an ***amendment*** of the above conditions in Case No. 19239 to limit the hours of the coffee shop from Sunday through Thursday, 4:30 p.m. to 11:00 p.m., Friday and Saturday, from 4:30 p.m. to 1:00 a.m.

* * * * *

Case No. 19235

Action Requested:

Approval of an amended site plan to add a 40' x 40' x 12' storage building.
SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS –
Use Unit 5, located 10310 S. Sheridan.

Presentation:

Jeff Steen, 404 W. Broadway, Broken Arrow, stated he was representing South Tulsa Baptist Church. The neighbors have addressed some concerns that they

would like some time to consider. He asked for a continuance to December 11, 2001.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **CONTINUE** Case No. 19235 to the meeting on December 11, 2001 regarding the property described as follows:

Lot 1, Block 1, South Tulsa Baptist Church Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

Case No. 19241

Action Requested:

Variance of required setback from 89' to 78.5' to permit an addition to an existing building. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located 4603 N. Cincinnati Pl.

Presentation:

Billy Lockridge, 851 N. Vancouver, stated he was representing the applicant. He stated that they propose to build a 900' garage addition to the existing building to be in line with the existing building. A site plan (Exhibit P-1) was submitted.

Comments and Questions:

Ms. Perkins asked what it is used for. Mr. Lockridge replied it is leased as a mechanic shop.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye", no "nays", no "abstentions", Turnbo "absent") to **APPROVE** a **Variance** of required setback from 89' to 78.5' to permit an addition to an existing building, per plan, finding the existing setback is already at 78.5', on the following described property:

Lots 8 and 9, Block 11, Fairhill 2nd Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

There being no further business, the meeting was adjourned at 4:48 p.m.

Date approved: NOVEMBER 27, 2001

A handwritten signature in dark ink, appearing to be "Shun" or similar, written over a horizontal line.

Chair