

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 662
Tuesday, August 9, 1994, 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
Bolzle Doverspike, Chairman Turnbo White	Chappelle	Gardner Moore Russell	Linker, Legal Parnell, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, August 5, 1994, at 3:58 p.m., as well as in the Reception Area of the INCOG offices.

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

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, Doverspike, White, "aye"; no "nays"; Turnbo, "abstaining"; Chappelle, "absent") to **APPROVE** the Minutes of July 26, 1994 (No. 661).

UNFINISHED BUSINESS

Case No. 16742

Action Requested:

Special exception to permit a Halloween outreach from the second week of October through November 15 annually and a special exception to permit a tent - Use Unit 5, located 7727 East 41st Street.

Presentation:

The applicant, **Bill Scheer**, 4500 South Garnett, #900, was not present.

Comments and Questions:

In review, Mr. Bolzle noted that the case was continued to allow additional advertising for temporary tent use and extended days of operation.

Mr. Bolzle asked if the tent location will be the same as the previous application, and Ms. Russell answered in the affirmative. A plot plan (Exhibit A.) was on file.

Case No. 16742 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **special exception** to permit a Halloween outreach from the second week of October through November 15 annually and a **special exception** to permit a tent per plan submitted; subject to the tent being at the same location and being the same size as the previously approved plan; finding that the extended days of operation for the temporary use will not be detrimental to the area; on the following described property:

E/2, SW/4, SE/4, SE/4, Section 23, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16757

Action Requested:

Minor special exception to reduce the required front yard from 25' to 20' to permit an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 3423 South 149th East Avenue.

Presentation:

The applicant, **Duke Anzlovar**, PO Box 181, Inola, Oklahoma, contractor for the project, submitted a plot plan (Exhibit B-2) and explained that he made a construction error and the house extends over the required building setback line. He stated that the original plans approved by the building inspector designate a 2' encroachment; however, due to an incorrect measurement, the completed dwelling extends approximately 8' into the required front yard. Mr. Anzlovar stated that the curvature of the street at this location prevents a straight alignment of the dwellings.

Comments and Questions:

Mr. Doverspike noted that the applicant has only requested 5' of relief and the case will require readvertising for any amount over 5'.

Ms. Russell informed that the required setback from the centerline of the street is 50' and the dwelling was constructed at 42'.

Case No. 16757 (continued)

The applicant noted that numerous houses in the neighborhood encroach 2' into the required setback.

In response to Mr. Bolzle, the applicant stated that the property has been surveyed (Exhibit B-1).

Mr. Doverspike advised Mr. Anzlovar that a hardship unique to the property will be required when the application is readvertised as a variance.

In reply to Mr. Doverspike, the applicant stated that the house was not moved farther back on the lot because of an existing sewer manhole.

Protestants:

Joy Jones, 3459 South 149th East Avenue, submitted photographs (Exhibit B-5) and a petition (Exhibit B-B-3) signed by individuals opposing the application. She noted that the applicant has not complied with restrictive covenants and pointed out that the house in question is closer to the street than any other home in the neighborhood. Ms. Jones stated that the applicant has not constructed the dwelling according to approved building plans and asked the Board to deny the request.

Wes Sirkis, 3431 South 149th East Avenue, stated that he is opposed to the application, because the house extends closer to the street than other dwellings in the neighborhood. He pointed out that the standard of construction does not comply with that of other homes in the area.

Mr. Doverspike advised Mr. Sirkis that the setback requirement is the only issue before the Board at this time.

Applicant's Rebuttal:

Mr. Anzlovar submitted photographs (Exhibit B-4) and noted that the curvature of the street prevents the houses from being in alignment.

Additional Comments:

Mr. Gardner advised the applicant that a hardship that is unique to the land must be presented for approval of a variance. He stated that, if a hardship is not demonstrated, a portion of the garage would have to be removed, or the garage could be relocated to the side of the dwelling.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 16757 to August 23, 1994, to allow sufficient time for readvertising.

NEW APPLICATIONS

Case No. 16728

Action Requested:

Special Exception to permit residential use in an OL zoned district - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** - Use Unit 11, located 1872 East 15th Street.

Comments and Questions:

Mr. Bolzle informed the he will abstain from hearing Case No. 16728.

Presentation:

The applicant, **Hamid Nazari**, 1872 East 15th Street, informed that he purchased the subject property with the intent of living in one part of the dwelling and selling oriental rugs in the remaining portion. He stated that an office will be located downstairs, as well as an area for consultations in connection with his wife's interior decorating business.

Additional Comments:

Mr. Doverspike asked what portion of the building will be devoted to residential use, and the applicant replied that approximately 1600 sq ft of the 3500 sq ft dwelling will be use for residential purposes.

Protestants:

Martin Steinmetz, 1763 South Xanthus, stated he has an office in the area, and is president of the Yorktown Neighborhood Association. He informed that the applicant has been cited by Code Enforcement for selling furniture in front of the subject property. Mr. Steinmetz requested that the Board permit only office or residential uses at this location.

Additional Comments:

Mr. Doverspike asked Mr. Steinmetz if he is aware of any other properties being used for both residential and office uses, and he replied that he is not aware of any.

Mr. Doverspike asked how residential use for the subject property would be detrimental to the area, and Mr. Steinmetz replied that St. Johns Hospital currently causes tremendous traffic problems in the area, and pointed out that approval of this request could set a precedent, which would add to the existing traffic congestion.

Case No. 16728 (continued)

Applicant's Rebuttal:

Mr. Nazari informed that there is a driveway on the west and adequate private parking is available. He noted that the front of the dwelling will be used for the business. The applicant stated that he was previously conducting garage sales at this location, but they ceased when Code Enforcement advised him that this is not permitted.

Additional Comments:

Mr. White asked if customers will come to the residence after business hours, and the applicant stated that the front rooms will serve as a showcase for customer viewing.

Mr. Gardner noted that interior design is permitted under Use Unit 11, but sales are prohibited.

Ms. Turnbo asked the applicant if he is aware that merchandise cannot be moved in and out of the building, and he answered in the affirmative. He remarked that furniture in the rooms may need refinishing from time to time and it may be moved out temporarily.

Mr. Doverspike stated that it is his finding that approval of half of the house for residential purposes would be detrimental to the area.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 2-1-1 (Turnbo, White, "aye"; Doverspike, "nay"; Bolzle, "abstaining"; Chappelle, "absent") to **APPROVE** a Special Exception to permit residential use in an OL zoned district - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** - Use Unit 11.

The motion failed for lack of three affirmative votes for approval.

Mr. Doverspike asked Mr. Linker if it would be possible to continue the case to the next scheduled meeting when all Board members could be present, and he answered in the affirmative.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-1 (Doverspike, Turnbo, White, "aye"; no "nays"; Bolzle, "abstaining"; Chappelle, "absent") to **CONTINUE** Case No. 16728 to August 23, 1994.

Case No. 16745

Action Requested:

Variance of the required setback from the centerline of North Atlanta Avenue, and a variance of the required side yard to permit a carport - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 72 North Atlanta Avenue.

Presentation:

The applicant, **David Estrada**, 72 North Atlanta Avenue, was represented by **Lewis Carter**, 320 South Boston, Suite 500, who informed that his client has added an attached carport to the side of his home and was not aware that the structure did not comply with Zoning Code regulations. He informed that it was initially determined that a variance is required on the front and side yards; however, the carport only encroaches into the required side yard. A plot plan (Exhibit C-1) was submitted. Mr. Carter submitted photographs (Exhibit C-2) of other carports in the neighborhood and noted that, because of the narrow lots, most of them are very near the lot lines.

Comments and Questions:

Mr. Doverspike remarked that the carport in question is enclosed, and asked if any of the nearby carports are enclosed. Mr. Carter stated that he is not sure if there are other enclosed structures in the neighborhood.

Mr. Bolzle asked if an existing carport can be enclosed without any type of approval, and Mr. Linker advised that a carport can be enclosed by right if it complies with the zoning requirements, unless there was some limitation imposed.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required side yard to permit a carport, and to **WITHDRAW** a **Variance** of the required setback from the centerline of North Atlanta Avenue-**SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that there are numerous carports in the area; and finding that the applicant is not in need of the variance of setback from Atlanta Avenue; on the following described property:

Lot 2, Block 1, Betebenner Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16746

Action Requested:

Special Exception to permit a mobile home in an RM-1 zoned district and a variance of the one-year time limitation - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located 2024 North Joplin.

Presentation:

The applicant, **Roberta Reser**, 5600 East 36th Street North, Lot 502, was not present.

Comments and Questions:

Ms. Russell advised that the applicant has requested that Case No. 16746 be withdrawn and fees be refunded. She stated that the application has been fully processed and recommended a refund of the \$25.00 public hearing portion of the fee.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a refund of \$25.00.

Case No. 16747

Action Requested:

Special Exception to permit a mobile home in an RS-3 zoned district, and a variance of the one-year time limitation - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9, located southwest corner of East 26th Place North and North Quaker Avenue.

Presentation:

The applicant, **Evelyn Pointer**, 1308 West Poplar Street, Hugo, Oklahoma, was represented by **Tony Welch**, 1612 East Seminole Street, who advised that she is co-owner of the subject property. She explained that Ms. Pointer is proposing to install a 60' by 28' mobile home on a concrete foundation, and future plans are to brick or rock the exterior. A plot plan (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Doverspike asked if the mobile home is in place, and Ms. Welch replied that it has not been installed.

Case No. 16747 (continued)

In response to Mr. Doverspike, Ms. Welch stated that she is not sure if there are other mobile homes in the neighborhood.

Protestants:

Hubert Bryant, 2623 North Peoria, stated that his office is west of the proposed location for the mobile home. He pointed out that the mobile unit will not be compatible with the established residential neighborhood, and noted that there are no other mobile homes in the area. He submitted photographs (Exhibit D-3) and a petition of opposition (Exhibit D-2) to the application.

Raymond Shambra, 2635 North Peoria, stated that he lives across the street from the property in question and voiced a concern that a mobile home in the neighborhood would have a negative impact on property values.

Annette Taylor, 2623 North Quaker, informed that she offices next door to Mr. Bryant, and that a mobile home at this location would be detrimental to the neighborhood. She noted that there are no mobile homes in the area.

Edward McQuarters, 2623 North Quaker, stated that he has lived in the area for many years and is opposed to the installation of a mobile home at the proposed location.

Applicant's Rebuttal:

Ms. Welch stated that the owners of the mobile home are elderly and have selected the proposed site because of the older neighborhood and residents. She pointed out that some mobile units are more attractive than many of the older homes.

Additional Comments:

Mr. Bolzle remarked that he is not in favor of adding a mobile home to a stable residential neighborhood.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **DENY** a **Special Exception** to permit a mobile home in an RS-3 zoned district, and a **variance** of the one-year time limitation - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** and **404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 9; finding that approval of a mobile home in this stable residential neighborhood would be detrimental to the area and in violation of the spirit and intent of the Code; on the following described property:

Lot 12, Block 4, Cliff View Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16748

Action Requested:

Variance of the required 150' of frontage on an arterial street to permit a lot split - **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 14, located south of the SE/c of East 91st Street and South Yale Avenue.

Presentation:

The applicant, **Robert Traband**, 7116 South Mingo, #103, was not present.

Comments and Questions:

Ms. Russell informed that the applicant has requested by letter (Exhibit E-1) that Case No. 16748 be withdrawn.

Board Action:

Finding no opposition, Chairman Doverspike announced withdrawal of Case No. 16748.

Case No. 16750

Action Requested:

Special Exception to permit a dry cleaners and a variance of the maximum 3000 sq ft floor area for a dry cleaners - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** and **SECTION 1215.B.3 Included Uses** - Use Unit 15, located northeast corner of East 31st Street and South Garnett Road.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, submitted a plot plan (Exhibit F-1) for a proposed 4000 sq ft dry cleaning business, which is to be located in an existing shopping center. He noted that the use is a typical retail establishment, with all cleaning and laundry being completed on site for local customers only. Mr. Johnsen pointed out that the use is not industrial in nature and complies with all Health Department requirements.

Comments and Questions:

Mr. Doverspike asked Mr. Johnsen if his client would be opposed to the dry-cleaning and laundry service being limited to on-site distribution to customers at this location, and he replied that his client is agreeable to that restriction.

Protestants:

None.

Case No. 16750 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a dry cleaners and a **variance** of the maximum 3000 sq ft floor area for a dry cleaners - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** and **SECTION 1215.B.3 Included Uses** - Use Unit 15; per plan submitted; subject to the dry-cleaning and laundry service being limited to on-site distribution to customers at this location, with no industrial use permitted; finding the use to be compatible with the area; and finding that the dry cleaning establishment will complete the cleaning process on site for local customers and will not be engaged in industrial distribution; on the following described property:

Part of Lot 1, Beginning NE/c thence south 515', west 244.71', north 244', west 175.29, north 221.3, east 138.32, northeast 290.12' to POB, Garnett Square Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16753

Action Requested:

Special Exception to permit automobile sales in a CS District, variance of the screening requirement and variance to permit open air storage or display of merchandise offered for sale within 300' of an abutting R District - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, SECTION 1217.C.1. and 2. - Use Conditions** - Use Unit 17, located 1269 South Memorial Drive.

Presentation:

The applicant, **Cheryl Steinsiek**, PO Box 55202, submitted a plot plan and elevations (Exhibit G-2) and informed that the same application was previously approved in 1989; however, it was not utilized within three years and that approval expired. She requested that an automobile pawn shop be permitted to operate at this location.

Comments and Questions:

Mr. Doverspike asked if the proposed pawn shop will be at the same location as the 1989 approval, and Ms. Steinsiek answered in the affirmative.

In reply to Mr. Doverspike, the applicant stated that the east boundary line of the property is heavily treed and does not have a screening fence. She added that a creek also separates the subject tract from the residential area to the east, and a screening fence is in place on most of the north lot line.

Case No. 16753 (continued)

Mr. Doverspike asked if only automobiles will be offered for sale, and the applicant replied that the items for sale will be limited to operative vehicles of all types. She added that there will be no outside storage of parts or materials.

Mr. Doverspike inquired as to the hours of operation for the business, and Ms. Steinsiek replied that the business will be open from 10 a.m. to 8 p.m., Monday through Saturday.

Mr. Bolzle asked if the property is in the floodplain, and the applicant answered in the affirmative.

Ms. Russell informed that the prior approval was granted per Stormwater Management approval of the fencing.

In response to Mr. Bolzle, the applicant stated that paving will be installed 100' back along the west frontage.

In reply to Mr. Doverspike, Ms. Steinsiek informed that there is a screening fence extending along the north boundary up to the building line and chain link fencing is in place from the building to the street.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit automobile sales in a CS District, **variance** of the screening requirement and **variance** to permit open air storage or display of merchandise offered for sale (vehicles only) within 300' of an abutting R District - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS, SECTION 1217.C.1. and 2. - Use Conditions** - Use Unit 17; per plan submitted (except no approval of non-impervious surface for storage area east of the building); subject to the west 100' of the north property line having no fencing or chain link; subject to the east property line being properly screened (location and type of screening being subject to Stormwater Management approval); subject to all vehicles being operable; and subject to no repairs or maintenance of vehicles on the site; finding the use, per conditions, to be compatible with the area; on the following described property:

Lot 6, Block 3, Forest Acres, City of Tulsa, Tulsa County, Oklahoma.

UNFINISHED BUSINESS

Case No. 16653

Action Requested:

Refund of fees for Case No. 16653.

Comments and Questions:

Ms. Russell informed that **William Newberry**, 7602 South Elwood, requested that the case be withdrawn prior to the public hearing. She informed that the application had been fully processed and recommended that the \$25.00 public hearing portion of the fee be refunded.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a refund of \$25.00 to William Newberry.

There being no further business, the meeting was adjourned at 2:25 p.m.

Date Approved 8/23/94


Chairman