

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 788
Tuesday, January 25, 2000, 1:00 p.m.
Rm. 1101, City Hall
Tulsa

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dunham, Vice Chair
Perkins
Cooper
Turnbo
White, Chair

Beach
Huntsinger

Ballentine,
Neighborhood Insp
Ackermann,
Zoning Official
Prather,
Legal Council

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, January 21, 2000, at 09:00 a.m., as well as in the Reception Area of the INCOG offices. Today's meeting was posted for the Francis Campbell Auditorium, but due to construction it was moved to Room 1101, City Hall. INCOG posted a person at the auditorium to give directions to the new meeting room.

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

Case No.18617

Action Requested:

Charles Holliday requests a continuance due to illness.

Comments and Questions:

Mr. White asked if there was anyone present to speak for or against the application. One person was present to protest, and was willing to return for a continuance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0, (Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; Cooper, "absent") to **CONTINUE** Case 18617 to the February 8, 2000 meeting.

Case No. 18617 (continued)

MINUTES:

On **MOTION** of **Turnbo**, the Board voted 4-0-0 (Dunham, Turnbo, White "aye"; no "nays"; "no abstentions"; Cooper, Perkins "absent") to **APPROVE** the Minutes of Case No. 18547 as presented today, from November 23, 1999. (No. 785).

UNFINISHED BUSINESS

Case No.18556

Action Requested:

Special Exception for lawn mower sales and repair in a CS District. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15. Variance of 300' setback for outdoor sales from abutting R district to 0'. SECTION 1214. USE UNIT 14. SHOPPING GOODS AND SERVICES. Special Exception to waive the screening requirement between a CS District and an R District. SECTION 212.C.1. SCREENING WALL OR FENCE, Modification of the Screening Wall or Fence Requirement, located at 8760 South Lewis Avenue.

Presentation

John Moody, 7146 S. Canton, came representing the owner of the property in consideration. He stated that they leased the property to South Tulsa Mowers, Inc. and they have been there for the last four years. The history of the property is that it was a convenience store and car wash, Use Unit 17. The tenant sells and repairs lawnmowers, and because of the repair portion of the business, it is a Use Unit 15. The use requires a special exception. He stated that in addition they store lawnmowers on the property and it requires approval of the Board.

Comments and Questions:

Mr. Dunham asked Mr. Moody if he had determined from the drawing that there is a gap between the legal description of this property and the RMH, or if it is correct. Mr. Moody replied that he believes it is correct, and may not require the waiver. Mr. Moody stated the surveyor was to determine the exact distance from the property line to the outdoor sales being conducted. He added that the legal description was corrected so that it could be advertised. Mr. Dunham asked if the legal description is correct. Mr. Moody was not sure. They agreed that there is a creek and trees between the property and the RMH district.

Protestants:

None.

Case No. 18556 (continued)

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the ***Special Exception*** for lawn mower sales and repair in a CS District, and if determined to be needed, the ***Variance*** of 300' setback for outdoor sales from abutting R district to 0', and a ***Special Exception*** to waive the screening requirement between a CS district and an R district, finding that it would 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, for the following described property:

All that part of Southern Villa Mobile Park Amended, an addition in Tulsa County, Oklahoma, more particularly described as: Beginning at a point in the Ely boundary of said Southern Villa Mobile Park Amended, 659.71' from the NE/c thereof; thence S 25°45'43" E along the Ely boundary of said Southern Villa Mobile Park Amended (centerline S. Lewis Ave.) a distance of 314.10' to an existing corner post of the N side of the roadway leading across a low-water dam into the addition; thence S 64°14'17" W a distance of 218.0'; thence N 25°45'43" W a distance of 314.1'; thence N 64°14'17" E a distance of 218.0' to the point of beginning, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No.18625

Action Requested:

Mr. Beach stated that Charles Norman asked for a continuance to March 14, 2000. The applicant just found out that there is a new development on property immediately abutting the subject property to the north, and wants time to review his proposal with the other developer.

Comments and Questions:

Mr. White asked if there were any interested parties present. Mr. Ken Smith, owner of the property to the north was present but willing to continue the case.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-0 (Cooper, Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 18625 to the March 14, 2000 meeting.

E side of S Wheeling & N of E. 78th St.

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Case No. 18624

Action Requested:

Special Exception to allow automobile sales (Use Unit 17) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17. Variance to allow open-air storage and display of merchandise abutting an R zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS, located at 2711 E. Admiral Pl.

Presentation:

Eddie Brand, 235 S. Pittsburgh, owner of the property, stated he bought the property from Atlas Fence. He stated materials were stacked up all over the property when he bought it and so he thought outside storage was allowed. He rented it to Mr. Romero and then found out it was CS-zoned. They have cleaned up the property and a metal fence was built at the back of the property.

Comments and Questions:

Mr. White asked if the property has been used for auto sales. Mr. Brand replied that it had not, he has had some trucks parked there and a dirt pile, which has been cleaned up.

Interested Parties:

None.

Protestants:

Lavita Alwhite, 127 N. Columbia Ave., is a homeowner of fifteen years in the area. The neighbors have formed an association to maintain the neighborhood. They are opposed to the change in zoning. She stated their concern for increased traffic because of children in the neighborhood, noise pollution, and too much lighting.

Councilor Turner, submitted six letters opposing the application. He stated that Chuck Patterson, of Patterson Realty, has adopted this neighborhood to revitalize. Mr. Turner stated that the outdoor storage would not be conducive to revitalization of the area.

Applicant's Rebuttal:

Mr. Brand stated that when he bought the property there were three lots, with a house damaged by fire, and a house with basement where vagrants were sleeping. He stated that he spent thousands of dollars filling in the basement and cleaning up the property. He has done everything to make it an asset to the community.

Comments and Questions:

Mr. Dunham stated the lot in question is the westernmost lot of the three he owns. Mr. Beach stated that the corner lot immediately to the west of this

Case No. 18624 (continued)

subject property already has the same approval from a case in 1997. Discussion ensued.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-1-1 (Perkins, White and Dunham "aye"; Turnbo "nay"; Cooper "abstains"; no "absences") to **APPROVE** the **Special Exception** to allow automobile sales (Use Unit 17) in a CS zoned district, and the **Variance** to allow open-air storage and display of merchandise abutting an R zoned district, finding the hardship to be the size of the building and lot for the following described property:

Lot 16, Ozarka Place, City of Tulsa, Tulsa County, Oklahoma.

NEW BUSINESS

Case No. 18634

Action Requested:

Variance of required setback from centerline of Memorial from 110' to 95.99'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS. Variance of the required setback from East 31st Street from 100' to 84.71'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located at 8013 E. 31st St.

Presentation:

David Gilbert, 210 Towncenter SE, Bella Vista, Arkansas appeared to present the case. He stated that the property is about three acres, but has considerable easement from Memorial Drive, 31st Street, a 20' utility easement on back of property along I-44, and two other utility easements crossing the property, including a very large storm sewer easement across the front half parallel to I-44. The shape and size of the property with the configuration of the easements restricts location of construction of a building. It is covered with asphalt, and has two old buildings. He stated the plan is to meet the landscape requirements, to build a new building, and remove the old buildings.

Comments and Questions:

None.

Interested Parties:

Carolyn Harter, 1238 S. 105th E. Ave., came representing the East Tulsa Mingo Valley Association requesting approval of the application. They traveled to Arkansas to see his other properties and were impressed with his care of those properties.

Case No. 18634 (continued)

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Cooper, Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the **Variance** of required setback from centerline of Memorial from 110' to 95.99', and the **Variance** of the required setback from East 31st Street from 100' to 84.71', finding the hardship to be the triangular shape of the lot for the following described property:

A parcel of land lying in part of the SE/4 of Section 14, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, Beg. at the SE/c of said Section 14, thence N along the E line of said SE/4 a distance of 474.09' to a point, thence S 48°34'30" W a distance of 720.77' to a point on the S line of said SE/4, thence E along the S line of said SE/4 a distance of 545.93' to POB.

Case No. 18635

Action Requested:

Variance to allow two dwelling units on one lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6, located at 4739 E. 6th St.

Presentation:

David Martin, 11605 E. 25th Street, stated that when he purchased the subject property in May 1998, including a residence and a garage apartment. The owner was living on the property. Mr. Martin stated that he has improved the property. He is asking for the Board to approve the garage apartment because of the grandfather clause.

Comments and Questions:

Ms. Turnbo stated that his history only goes back to 1993. She asked when the house was built. He replied it was built in 1941. She stated that it had to meet the requirements of 1970. Mr. Martin replied that it has been listed on the tax records as a residence and garage apartment. Mr. Dunham stated he has a letter that suggests the apartment has been vacant for some time. Ms. Turnbo stated that it needs to be determined if and how long it was vacant regarding conformance. Mr. White asked what prompted the application. Mr. Ballentine stated that it came through the neighborhood inspections office for remodeling. Discussion followed regarding the removal of a part of the garage.

Protestants:

Glenn Bynum, 4731 E. 6th Street, stated that only a section of the garage was torn off because it extended over the property line. A full garage space remained which was expanded from an efficiency unit into a small house. No one has lived there for the last two years. He submitted a petition of protest

Case No. 18635 (continued)

signed by a few neighbors. He stated that the property is on a narrow street of older houses with an increased number of cars per residence.

Ms. Turnbo asked how long Mr. Bynum has lived there. He replied about ten years of the fifteen to twenty years he has owned it. She asked him about a much earlier time period of vacancy in the apartment.

Interested Parties:

Rama Reiner, 4732 E. 6th Street, has been a homeowner across the street from the garage apartment since 1973. She stated to the best of her knowledge the apartment has been used by several tenants for most of that time. She does not remember any three-year period that the apartment was vacant. She stated she does not think there would be a parking problem.

Rebuttal:

Mr. Martin stated it is an improvement for the neighborhood. All that he has done is remodel the inside. The lean-to garage was torn off. The square footage has not changed.

Comments and Questions:

Mr. Beach stated that for a non-conforming use in a single-family residential area, there must be room for four parking spaces.

Mr. Dunham asked staff what information the Board needs to determine conforming vs. non-conforming. Mr. Beach stated it would need to have been in continuous use since the law went into effect prohibiting two dwelling units on one lot. Mr. Stump stated it has to be vacant 36 out of 48 months to lose non-conformance. Discussion ensued.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 3-2-0, (Cooper, Turnbo, Perkins, and "aye"; White, Dunham "nay"; no "abstentions"; no "absences") that the unit is no longer a non-conforming garage apartment, finding no evidence of when it was first occupied as an apartment.

On **MOTION** of **Cooper**, the Board voted 5-0-0 (Cooper, Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** the case to give applicant time to advertise for the relief he needs. No date was set.

Lot 23, Block 5, Kendall View Addition, City of Tulsa, Tulsa County, Oklahoma

Case No. 18636

Action Requested:

Minor Special Exception to amend a site plan to add less than 15% to an existing church in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located at 6110 E. 20th St.

Presentation:

John Moody, 7146 S. Canton, came representing the South Lakewood Baptist Church, stated it is adjacent to the north of a commercial center with a variety of uses. The property was first approved for a special exception for a church in an RS-3 district, per plot plan. He stated they are applying for an addition, per a new site plan. The addition proposed is less than 4,000 square feet and the total of the church buildings is 24,369 square feet. Landscaping will be added, and all required parking spaces would be available.

Comments and Questions:

None.

Interested Parties/Protestants:

None.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (Cooper, Turnbo, Perkins, White and Dunham “aye”; no “nays”; no “abstentions”; no “absences”) to **APPROVE** the ***Minor Special Exception*** to amend a site plan to add less than 15% to an existing church 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, regarding the following described property:

All that part of the SW/4 SE/4 SE/4, Section 10, T-19-N, R-13-E, of the IBM, more particularly described as follows, to wit: Commencing at a point in the S boundary line of said SW/4 SE/4 SE/4, 180.00' from the SE/c thereof; thence N 0°26'22" E parallel to and 180.00' from the E boundary line of said SW/4 a distance of 265.20' to the POB; thence S 89°59'20" W a distance of 269.80'; thence N 0°26'22" E a distance of 105.00'; thence S 89°59'20" W a distance of 178.80' to a point in the E right-of-way line of S. Lakewood Ave.; thence N 0°25'30" E along said E right-of-way line a distance of 120.00' to a point in the S right-of-way line of E. 20th St. S.; thence N 89°59'20" E along said S right-of-way line a distance of 300.00' to the NW/c of Lot 2, Block 2, Sheridan Ridge; thence S 0°25'30" W along the W boundary line of Lot 2 of said Sheridan Ridge a distance of 120.00'; thence N 89°59'20" E along the S boundary line of Block 2 of said Sheridan Ridge a distance of 150.00'; thence S 0°26'22" W a distance of 105.00' to the POB, located within the City of Tulsa, Tulsa County, Oklahoma.

Case No. 18637

Action Requested:

Variance of required parking from 54 spaces to 23 spaces. SECTION 1205. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES – Use Unit 5. Special Exception to permit church and church parking in RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS. Special Exception to remove screening fence requirement for church parking. SECTION 212. SCREENING WALL OR FENCE, located at 2124 E. 31st Pl. N.

Presentation:

John Moody, 7146 S. Canton, is representing the Church of the Living God, which was approved by the Board of Adjustment in 1959. He submitted photos of the church and surrounding area. He stated that the plan includes all-weather surface parking as required. Mr. Moody added that they will be adding 64 more seats in the sanctuary. Mr. Dunham stated that this would require 23 parking spaces.

Comments and Questions:

Mr. Cooper asked what the hardship would be. Mr. Moody replied that the narrowness of the 50' lot would be a hardship for parking.

Interested Parties:

Otis Daniels stated that they have a very small church of about twelve families. There is adequate parking and they do not anticipate needing any more.

Comments and Questions:

Mr. Dunham reminded the Board that several things are being requested, and he stated them. Ms. Perkins stated that the building would screen the parking lot from the nearby houses.

Mr. Stump commented that there are several deficiencies in the actions requested.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Cooper, Turnbo, Perkins, White and Dunham “aye”; no “nays”; no “abstentions”; no “absences”) to **APPROVE** the ***Variance*** of required parking from 54 spaces to 23 spaces; a ***Special Exception*** to remove screening fence requirement for church parking, finding the hardship to be the size of the lot and sanctuary; and finding the ***Special Exception*** to permit church and church parking is not necessary regarding the following described property:

Lots 4-6, Block 7, Beauty Rest Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 18638

Action Requested:

Special Exception to permit a church in an IM zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 5, located at 1628 & 1632 E. 6th St.

Presentation:

Ms. Streetman, 4845 S. Sheridan, with Streetman Realty, stated that she is representing Dr. M.B. Jefferson, from Tampa, Florida. He comes to Tulsa and holds crusades. She showed the property at 1628 and 1632 E. 6th St., and the applicant would like to build a small outreach church there. Ms. Streetman submitted photos.

Protestants:

Mike Ashley, 7720 E. 86th St., owner of the commercial buildings at 1616 E. 6th and 1614 E. 6th, appears to oppose the application. He stated his concern that such a facility will be a magnet for homeless people. He mentioned that they already have trouble with graffiti.

David Cordell, 2126 E. 30th St., is representing the property owner at 1635 E. 6th St., a warehouse building. It is currently leased by Tulsa University for storage. The area seems to be improving with long-term tenants and refurbishing buildings, and approval would make the new facility use inconsistent with others in the area.

Interested Parties:

Norris Streetman, 1541 E. 4th, homeowner in the vicinity of the subject property. He stated that he does see drunks and homeless people in the area. He stated his appreciation of the applicant's endeavor to provide this kind of facility in the neighborhood.

Harold Streetman, stated his opinion that a church is not going to hurt the area. It will be reaching out to those who have problems and help the community rather than run it down.

Rebuttal:

Ms. Streetman, stated that the applicant is building this type of facility all over the United States. Their plan is to construct a very nice facility and improve the property.

Comments and Questions:

The Board discussed the issues of the number of people that would be concentrated in one area. They also discussed whether the facility would be a detriment versus improvement to the neighborhood.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 3-2-0 (Turnbo, Perkins, and Dunham "aye"; Cooper, White "nay"; no "abstentions"; no "absences") to **APPROVE** the ***Special Exception*** to permit a church in an IM zoned district, per plan, 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 for the following described property:

Lot 2 except the E 5' of the S 100' and Lot 3, all in Block 5, Glass Factory Addition, City of Tulsa, Tulsa County, Oklahoma.

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Case No. 18630

Action Requested:

Request the Board to reconsider the application decided on January 11, 2000, for a Special Exception to allow an auto car wash (Use Unit 17) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located at 4904 S. Union.

Presentation:

Lawrence Taylor, 3223 E. 31st, is asking for a reconsideration of this case because he misunderstood the schedule of the January 11th meeting and missed his opportunity to present.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-1-0 (Turnbo, Perkins, White and Dunham "aye"; Cooper "nay"; no "abstentions"; no "absences") to Re-hear this case on February 22, 2000 regarding the following described property:

N 205' of Lot 2, Block 2, Greenfield Acres, City of Tulsa, Tulsa County, Oklahoma.

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Case No. 17888

Action Requested:

Special Exception to allow a church and accessory uses in an OL zoned district. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS – Use Unit 2, located S of the SW/c E. 4th St. & S. Memorial.

Presentation:

Mr. Beach stated that the staff reviewed the site plan and compared it with minutes of the previous hearing and it satisfied any concerns that the Board expressed at that time.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (Cooper, Turnbo, Perkins, White and Dunham "aye"; no "nays"; no "abstentions"; no "absences") to


Case No. 17888 (continued)

APPROVE the *Special Exception* to allow a church and accessory uses in an OL zoned district, per site 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.

Adjournment:

There being no further business, the meeting was adjourned at 3:04 p.m.

Date approved: FEBRUARY 8, 2000



Chair