

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 800
Tuesday, July 25, 2000, 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
Cooper
White, Chair
Turnbo
Perkins

Beach
Butler
Stump

Prather, Legal
Boulden, Legal
Ackerman,
Zoning Official

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, July 24, 2000, at 8:30 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair, White called the meeting to order at 1:11 p.m.

MINUTES:

On **MOTION** of Dunham, the Board voted to 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of June 27, 2000 (No. 798).

UNFINISHED BUSINESS

Case No. 18742

Action Requested:

For the Board of Adjustment to **reconsider** its decision in the referenced case that was made in a public hearing on July 11, 2000.

Presentation:

Mr. Beach stated that Tower Heights Neighborhood Association made a request for re-advertisement of this case to be re-heard by the Board of Adjustment.

Comments and Questions:

Mr. White asked Mr. Prather to explain the procedure for Reconsideration of a case. Mr. Prather explained that one of the members that voted for the case in the previous Board action would need to make a motion to reconsider. There would need to be an extraordinary circumstance, such as the Board has exceeded their jurisdiction, or there was some sort of mistake in the rule, or similar problem. To be extraordinary, it would need to change the whole tenor of the issue. Mr. White

Case No. 18742 (continued)

brought up the three issues listed by the applicant. Mr. Prather stated that he saw no legal reason to re-hear the case.

Board Action:

On **MOTION** of **Perkins**, the Board voted 3-2-0 (Dunham, Turnbo, Perkins, "aye"; no White, Cooper "nay"; no "abstentions"; no "absences") to **DENY** Case No. 18742 to re-advertise.

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Case No. 18790

Action Requested:

Variance of Section 1217.C.2 to allow open-air storage or display of automobiles offered for sale within 300' of an R zoned district to 0'. SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions – Use Unit 17, located S of SW/c E. 11th St. & S. 145th E. Ave.

Presentation:

Robert Flynn, P.O. 799, Tulsa, OK, stated he was an attorney representing Andy Flynn. It was his opinion that the Board of Adjustment (BOA) Action of 18 years ago, regarding when uncle started his business, needed some housekeeping. He stated that the BOA allowed him to operate a car lot, permitting the sale of automobiles and or mobile homes in a CS district, with a screening fence required on the south and west sides, and a hard surface parking lot to run with this owner only. He added that they did not specifically state that they would also allow him to display cars on the hard surface parking lot, which seems to be contradictory.

Comments and Questions:

Ms. Turnbo asked Mr. Flynn about the outside storage of stacked tires and old batteries. Mr. Flynn responded that someone who leased the property had allowed this but it has been cleaned up since that time. He stated that the applicant only desires to display automobiles; motor homes rather than mobile homes, campers, and similar things on the hard surface lot. Mr. Dunham commented that this application is only for that portion of the lot that fronts on 145th and only on the paved area.

Protestants:

James Mautino, 14628 E. 12th St., submitted an information packet to the Board (Exhibit A-1). He stated that Use Unit 17 has two conditions for fencing, and that within a CS district not outside display within 300' of an R district. He stated that for several years the applicant leased the property, and it was used for storage on bare ground, the pole barn was used for a garage and repair. He added that neighbors were disturbed at all hours of the night. Neighborhood Inspections cited

Mr. Flynn, and the towing service was then cleared out and the property cleaned up. Mr. Mautino informed the Board that in 1999 the property was leased to a tire wholesaler that brought in two semi-truck loads of used tires and stacked them on bare ground, and put up a screening fence. When a third truckload of tires was brought in, Code Enforcement stopped the process. Recently a used car lot was established and the pole barn has again been used for repairs. There are signs of detail work and painting. The pole barn is 13' from a residential property line, where young children play. Four high intensity lights were installed on a high pole, and shine on the neighboring property. Mr. Mautino also stated concern regarding some 55-gallon barrels and what they may contain that have been stored on the subject property.

Comments and Questions:

Mr. White asked Mr. Prather if the Board were inclined to deny the application, would the BOA actions in 1982 and 1989 be in effect. Mr. Prather responded that the previous actions would be in effect.

Protestants:

Randy McPhearson, 14326 E. 11th St., to the west of the subject property, stated concern about more paving that could cause excess water run-off onto his property. He had a complaint that the lighting on the subject property was too bright and much of it is directed toward his property.

Eck Ruddick, P.O. 6920177, stated he is in the Tower Heights Neighborhood Association. He shared his concern regarding the wrecker service that was allowed to use the property, on an unpaved surface, and use alarm lights and sounds, all hours of the day and night. He stated that the cars disappear on Tuesdays and are returned on Fridays. Mr. Ruddick mentioned the possible dangers of paint fumes to the children that play in the yard next door.

Comments and Questions:

Ms. Turnbo asked if anyone in the neighborhood contacted the EPA about the barrels. Mr. Ruddick replied that they only recently took the pictures of the property and had not contacted the Environmental Protection Agency (EPA) as yet. He informed the Board that the neighborhood association has a meeting with the Department of Environmental Quality (DEQ) on July 26, 2000, and the subject will be addressed.

Applicant's Rebuttal:

Mr. Flynn stated his belief that the need in this case is for the Board to do housekeeping to accomplish what the applicant attempted to do in 1982. He recognized that those who had leased the property in the past did not comply with the zoning code. The applicant was relieved to have the Neighborhood Inspections citation to facilitate breaking the lease so that he could clean up the

property. Mr. Flynn stated that the presence of the barrels and their contents would be brought to the applicants' attention. His request was that the applicant be permitted to display automobiles on the hard surface parking lot.

Comments and Questions:

Mr. White asked Mr. Flynn to reiterate the hardship for the Variance. Mr. Flynn stated that the hardship is the time and money the applicant spent to meet the requirements for a hard surface and screening if he can't display cars on the hard surface he was instructed to put in for parking cars. Mr. Cooper asked if Mr. Flynn would be willing to put in shields for the lights. He replied that this would be a good idea, and he thought the applicant would be willing to shield the lights. Mr. Cooper asked Mr. Flynn to suggest established operating hours that would be agreeable to the applicant. Mr. Flynn indicated whatever is usual and customary, or what is reasonable to the Board.

Board discussion ensued regarding the legal description, portion of property involved in the action requested, lights, and hours of operation.

Board Action:

Mr. Dunham made the **MOTION** to **CONTINUE** Case No. 18790 to August 8, 2000. The motion failed for lack of a second. After further Board discussion **Mr. Dunham WITHDREW** the motion to continue.

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of Section 1217.C.2 to allow open-air storage or display of automobiles offered for sale within 300' of an R zoned district to O', finding the hardship to be an administrative matter to clean up the prior Variance, and to place restrictions that lights be shielded and pointed downward, auto sales only, operable cars only, hours of operation be 8:00 a.m. to 8:00 p.m., Monday through Saturday, paved surface for autos on display, and all of Lot 1 and east 31.4' of south 150' Lot 2, a screening fence along the south and west boundary properly installed, and finding that it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

S 150' of Lot 1 and all Lot 2 less and except the E 31.4' of the N 150' thereof, Block 1, Maudlin Resubdivision Lot 1, 2 and 7, Block 2; Eleventh Street Acres, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18794

Action Requested:

Variance of required street frontage in a CS district of 150' down to 83' for lot split purposes. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, 6501 E. 71st St.

Presentation:

The applicant, **Larry Pennington**, 9718 E. 55th Pl., stated his request, describing the portion of the property involved in the case. He indicated the need to move the access on Sheridan further north. The hardship is that current driveway is so steep that trucks hang up on high center.

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required street frontage in a CS district of 150' down to 83' for lot split purposes, per plan, with the condition that no access on remaining 83' frontage on Sheridan, and the intention of the Board is that the 83' continue to be tied with the remainder of Lot 3, finding the hardship to be the elevation changes to the corner, on the following described property:

All of Lot 3, less the east 20' and less a parcel in the NW/c of Lot 3, more particularly described as follows: Beg. at the NW/c of Lot 3; thence E 180' to a point; thence S 295.01' to a point; thence W 180' to a point on the W line of Lot 3; thence N along the W line of Lot 3 a distance of 295.01' to a point beg. and less, Beg. at a point 20.00' due W of the SE/c of said Lot 3; thence due W along the S line of said Lot 3, a distance of 125.00' to a point; thence due N a distance of 226.90' to a point, said point being on the NEly property line of said Lot 3; thence S 61°35'20" E a distance of 0.00'; thence SEly along the NEly property line of said Lot 3 on a curve to the left, said curve having a central angle of 11°09'38" and a radius of 680.00', a distance of 132.46' to a point; thence S 1°00'59" E on a line 20.00' W of the E line of said Lot 3, a distance of 175.62' to the POB, Block 1, Plaza Village, an Amended Plat of Skyview Center, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, And less and except: A parcel of land lying in Lot 3, Block 1, Plaza Village, an Amended Plat of Skyview Center, being more particularly described as follows, to-wit: Commencing at the SW/c of said Lot 3, said point also being the SE/c of Lot 4; thence N between Lots 3 and 4, 10.00' to the POB; thence E and parallel to the S line of Lot 3, 132.60'; thence N 10.00'; thence W and parallel to the said S line 132.60'; thence S along the Lot line between Lots 3 and 4, 10.00' to the POB. And less and except: A part of Lot 3, Block 1, Plaza Village, an amended plat of Skyview Center, being more particularly described as follows, to-wit: Beg. at the NW/c of Lot 4, Block 1; thence N 00°05'37" W, along the W line of Lot 3, a distance of 46.67'; thence N 89°54'23" E, a distance of 140.50'; thence S 00°05'37" E, a distance of

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30.00'; thence N 89°54'23" E, a distance of 61.00'; thence S 00°05'37" E, a distance of 197.00'; thence N 90°00'00" W, a distance of 1.50' to the E line of said Lot 4; thence N 00°05'37" W along the E line, a distance of 180.00' to the NE/c of said Lot 4; thence N 90°00'00" W, along the N line of said Lot 4, a distance of 200.00' to the POB

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NEW APPLICATIONS

Case No. 18803

Action Requested:

Special Exception to permit tire sales and auto repair in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located 12545 E. 21st St.

Presentation:

The applicant, **F.L. Swanson**, 11421 S. Granite Pl., stated he sent a letter to the Board and a survey, and asked if it was received. Mr. White responded that the letter was not received but the survey was received. Mr. Swanson stated that he desires to allow his tenant to continue a tire sales business and auto repair. He was willing to build the screening fence. The property was previously used for a gas station and tire sales. He was unaware that the business was not in compliance with the zoning.

Comments and Questions:

Mr. White stated that the Special Exception approved by the Board of Adjustment in 1983 allowed the lot to be split into 60' and 90' sections and limited the west bank to automobile sales only. He asked the applicant if he wanted the Special Exception to cover the entire 150'. Mr. Swanson replied in the affirmative.

Mr. Beach stated that a citation was written for failure to build a required screening fence and for tire sales that are not allowed on the property.

Protestants:

James Mautino, 14628 E. 12th St., stated he represented Tower Heights Neighborhood Association. He protests this application based on outside storage of old cars, junk, used tires, and submitted pictures (Exhibit B-1).

Hilda Brown, 706 S. 138th E. Ave. stated complaints as above.

Applicant's Rebuttal:

The speaker for applicant (name and address not stated to the Board) spoke in defense of the established business, stating that the lessee is an honest

Case No. 18803 (continued)

businessman. The applicant has stated he will build the screening fence in compliance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** Case No. 18803, finding that 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.

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Case No. 18806

Action Requested:

Special Exception to Section 701 to allow a single-family dwelling in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6, located 1308 N. Nogales.

Presentation:

The applicant, **Jose Botello**, P.O. Box 2872, Tulsa, Ok., stated the lot is vacant and he desires to move a house onto the property.

Comments and Questions:

Ms. Turnbo asked if the house was a mobile home. Mr. Botello replied that it is an existing frame house.

Protestants:

Harold Wise, 1011 W. Newton, owner of the Brown Sugar Club protests the application on the basis that it would be right next door to a club. He was concerned about possible complaints in the future against his club by the applicant.

Applicant's Rebuttal:

Mr. Botello stated that he had relatives in the neighborhood, he liked the neighborhood and that is where he wanted to live.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-1-0 (White, Dunham, Turnbo, Cooper "aye"; Perkins "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to Section 701 to allow a single-family dwelling in a CS zoned district, and that the intent is for a single-family dwelling and not a commercial business, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 4, Block 2, Osage Place, City of Tulsa, Osage County, State of Oklahoma.

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Case No. 18808

Action Requested:

Special Exception to permit a mobile home in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Special Exception of one-year time limit to permit a mobile home permanently. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located 496 W. 36th Pl.

Presentation:

The applicant, **Timothy Scott Nall**, 3755 S. Tacoma, stated he had fulfilled all of the obligations, site plan was given to the Board and would like to move a mobile home back on the property permanently. He stated that there are other mobile homes in the area. He stated that the legal description was incorrect, and should read the N 165' of Lot 11.

Protestants:

None.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-1-0 (White, Dunham, Turnbo, Perkins, "aye"; Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a mobile home in an RS-3 district, per plan; and a **Special Exception** of one year time limit to permit a mobile home permanently, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

N 165' of Lot 11, Block 2, Garden City Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No.18809

Action Requested:

Variance of required 5' side yard 2½' to permit the construction of a garage in an RS-2 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 4930 E. 7th St.

Presentation:

The applicant, **Anthony Miller**, 1722 S. Carson, Ste. 3101, stated he represented Jason Ray, 4930 E. 7th St. The applicant wants to replace the existing garage. The old structure is about 71 years old and was built too narrow for the newer cars. The unique shape of the lot and the easements do not allow enough room on the other side of the house for a garage.

Comments and Questions:

Mr. Beach asked if the finished structure with the brick would be only 2 ½' from the property line. Mr. Miller replied that the boundary survey shows it would be 2.9' from the property line. Mr. Stump asked about the 32' depth for the garage that would cause an encroachment to the required setback. Mr. Ray, the owner, replied that he was trying to stay with the style of the house, and wanted to include a work space at the back of the garage for personal use and not commercial. Ms. Turnbo asked about the plans for a single garage door at back of the structure. Mr. Miller wanted access to the back yard by driving through the garage.

Protestants:

James Williamson, 1515 E. 71st, Ste 302, came representing Billie Townsend, 4931 E. 7th St., neighbor on the west of Mr. Miller. Ms. Townsend's objection to the application is that her own property would be diminished by the variance. He stated that there is no hardship for the variance; it is just the personal preference of the applicant.

Applicant's Rebuttal:

Mr. Miller stated that the length of the new structure would be a distance of .2' over the 5' requirement and would farther from the lot line than the old structure.

Comments and Questions:

Mr. White asked about storage of 28' empty box trailer. Mr. Miller replied that he uses it to travel to car shows, and he has permission from the neighbors to park it there.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required 5' side yard 2½' to permit the construction of a garage in an RS-2 district for personal use only not commercial, per plan, on the following described property:

A part of Lot 10, Block 23, White City Addition, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows to-wit. Beg. at the SE/c of said Lot 10; thence in a NEly direction along the E line of Lot 10, 264.5' to the NE/c of said Lot 10; thence along the N line of said Lot 10 on a 662.39' radius curve, a distance of 132.7' to a point of tangent; thence in a Sly direction a distance of 241.07' to a point on the S line of said Lot 10, this point being 2.2' NWly from the SE/c of said lot; thence in a SEly direction a distance of 2.2' to the POB

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Case No. 18810

Action Requested:

Special Exception to allow church use in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located 3143 N. Xanthus Pl.

Presentation:

The applicant, **Tony Maxville**, 1204 N. Santa Fe, stated that the church desires to build a dining hall across the street from the church. The existing kitchen and dining hall is too small for the number of people they serve.

Protestants:

Opal (last name inaudible), 2015 E. 31st Pl. N., protested the application because it would be behind her home taking her privacy and cutting her off from her neighbor. She expected it would cause a traffic problem because of the narrow street, and lower her property value. She indicated that it would be inconsistent with the neighborhood.

Comments and Questions:

Mr. Cooper asked the protestant to point out where her home is located on the site plan as related to the subject property. Mr. Stump stated she is located immediately south and her neighbor is immediately north of the tract.

Mr. White advised the Board of a letter of protest from **Harvey Jones**, at 3216 N. Xanthus Pl., which is north of the subject property.

Applicant's Rebuttal:

Mr. Maxville stated he had just talked with Harvey Jones, and his concern was that the map that was sent out to the neighbors showed an alley as if it were a street. He stated that just because they added space to the sanctuary did not mean they do not need more space in the kitchen/dining area. He stated they need more room to accommodate larger numbers of people for funerals and other gatherings. The traffic would not change from what it has been at these times and the parking would continue to be at the main church building.

Comments and Questions:

Mr. Dunham asked why they don't want to build on the other lots owned by the church. Mr. Maxville replied that they plan to use the other lots for recreation area for the children. Mr. Beach asked if they plan to use the dining hall for other group gatherings. Mr. Maxville stated that it would be for the church functions only.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-1-0 (White, Dunham, Turnbo, Perkins "aye"; Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow church use in an RS-3 district, with the conditions to meet

Case No. 18810 (continued)

landscape requirements, dining hall to be used for church purposes only and not leased for outside purposes, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 3 and 4, Block 1, Murray Addition, City of Tulsa, Tulsa County, State of Oklahoma

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Case No.18812

Action Requested:

Special Exception to allow a Bed and Breakfast (Use Unit 2) in an RS-3 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2, located 1585 E. 19th St.

Presentation:

The applicant, **Jocelyn Heard**, 6535 S. Fulton, stated she desires to use the subject property as her personal residence and a bed and breakfast. She submitted a binder containing documentation on her plans, transactions and photographs for the bed and breakfast. She addressed the traffic/parking issues, including shuttle service and required parking spaces.

Comments and Questions:

In answer to questions from the Board and staff, Ms. Heard responded there would be two guestrooms; she plans to serve breakfast only to overnight guests.

Protestants:

Aaron Adams, 1575 E. 19th St., stated her concern regarding commercial encroachment, and security issues when there are a people coming and going that are not a part of the neighborhood, late night check-in times, and parking on the street.

Interested Parties:

Chip Adkins, 1638 E. 17th Pl., President of the Swan Lake Home Owners Association, stated he talked with other Board members regarding this application. They already deal with some commercial encroachment concerns in the area, and have had traffic problems on 19th Street. They appreciated Ms. Heard's agreement to 10:00 p.m. as the latest check-in time, and screening fence in back yard. The association has no objection to the bed and breakfast.

Stacey Bales, came before the Board in support of the bed and breakfast. She stated Ms. Heard has been more than candid with the neighbors, and has taken exceptional steps to consult with the neighborhood.

Trish Sherry, came to represent her mother who owns property at 1568 Swan Drive. She is in favor of bed and breakfasts, and came today with interest and some concerns. She was satisfied and feels her concerns were all addressed.

Applicant's Rebuttal:

Ms. Heard stated there are four other bed and breakfasts in Tulsa. She shared her plans to convert the sunroom and garage into bedrooms for herself and her daughter. She is very concerned about safety, especially for her own child. Ms. Heard also described her plans to put in a hedge for screening also.

Comments and Questions:

Mr. Dunham asked if the neighborhood had any other conditions they would request. Mr. Adkins stated the latest check-in time of 10:00 p.m. is good.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to allow a Bed and Breakfast (Use Unit 2) in an RS-3 zoned district, subject to meeting all of the conditions of a Bed and Breakfast, and a no later than 10:00 p.m. check-in time, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lot 9, Block 2, Swan Park, City of Tulsa, Tulsa County, State of Oklahoma

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Case No.18813

Action Requested:

Special Exception to allow an 8' screening fence in the required front yard in an RS-3 district. SECTION 212.A. SCREENING WALL OR FENCE, Specifications – Use Unit 17; and a Special Exception to waive the screening requirement along the south line of Lot 3. SECTION 212.A. SCREENING WALL OR FENCE, Specifications, located 3244 N. Lewis.

Presentation:

The applicant, **Jerry Springer**, 3244 N. Lewis, stated his request for an 8' screening fence because of past burglaries.

Protestants:

(Name inaudible) Ogens, of Dewey, Ok, and her daughter, Joyce Ogens, 1409 S. Oak, Bartlesville, Ok., stated concerns from misinformation, and they withdrew any protest.

Case No. 18813 (continued)

Applicant's Rebuttal:

Mr. Springer stated that a metal fence would be placed where the existing fence is located.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow an 8' screening fence in the required front yard in an RS-3 district, per plan; and a **Special Exception** to waive the screening requirement along the south line of Lot 3, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 1 - 4, Block 1, Beauty Rest Addition, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18814

Action Requested:

Special Exception to allow Use Unit 24 (sand and gravel removal) in an AG zoned district for two years. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 24, located 5629 E. 131st St.

Presentation:

The applicant, **Stacy Ingraham**, 5629 E. 131st St., stated that he would like to complete the job that he started, and he has not had any opposition.

Protestants:

Steve Wallace, stated he is the developer of the property southeast of the subject property in the area identified as PUD 4090, from 1993, on the case map. He made his objection to the size of the mining operation and the excessive amount of truck traffic in and out of the property. He indicated that the applicant has been out of compliance for 23 months and never came to the Board of Adjustment, for the mining operation. He desires to see the request denied and the land restored to the original contour.

Comments and Questions:

Ms. Turnbo asked when the building of his development was going to begin. He responded that they considered to have already begun, since the channel has been constructed. He stated it was going to be difficult to find investors with a mining operation going on next door.

Protestants:

Royce Wright, 6716 E. 65th St., stated he owns the 80 acres east of the subject property. He has made an offer to buy the 20 acres and give Mr. Ingraham time to fill in the hole.

Bud Carr, 12602 S. Sheridan, stated that his family owns property a ¼ of a mile south and ½ west. He stated concern about the impact on neighbors' well water. He also had concerns as listed above, including truck traffic.

Applicant's Rebuttal:

Mr. Ingraham stated that he had spent about \$30, 000.00 to improve 131st Street that his trucks use. He indicated that he is not close enough to affect the wells in the area. Mr. Ingraham stated that Mr. Wallace was aware and could have purchased the property before mining started. He expected to be through with the mining before building begins in the new development. Mr. Ingraham stated that he is required to stay 100' from the levy, and he is not even that close. He was commended by the Oklahoma Mining Department for reinforcement of the levy, for which he paid. He informed the Board that he has monthly inspections by the Oklahoma Mining Department; and has received zero violations. He offered to show the Board copies of all his permits, contracts, and pictures. He stated that if he had known he needed a Special Exception he would have requested it. He has a Watershed Development permit, an Earth change permit from the City of Tulsa, and an Oklahoma Mining Department permit available for anyone to see. Mr. Ingraham offered the contract between himself and Mr. Wallace of five or six years ago, and one between himself and Mr. Wright.

Comments and Questions:

Mr. White asked how many trucks the applicant is running per day. Mr. Ingraham replied about 25 trucks, eight trips per truck per day on an average per year.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow Use Unit 24 (sand and gravel removal) in an AG zoned district for two years, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Government Lot 8, Section 3, T-17-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18815

Action Requested:

Special Exception to permit auto sales in a CS district and vehicle repair in preparation for sale. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Special Exception to permit storage or display of motorized vehicles on gravel located behind the building setback line. SECTION 222. MOTORIZED VEHICLES, located 5929 S. Peoria.

Presentation:

The applicant, **Joe Seibert**, 1371 E. 27th St., stated he has owned the property since 1961 and has leased to a number of companies. He stated that numerous times he has turned down businesses because he did not consider them appropriate. He believes that used car sales would be appropriate there.

James Martin, 5510 S. Cincinnati, stated he would like to open a used car lot, a wash bay and do minor car repairs.

Comments and Questions:

Ms. Perkins asked about the type of car repairs. Mr. Martin stated just minor things to prepare used cars and wash them in preparation for sale.

Protestants:

Paul Missick, 6004 S. Birmingham, stated his concern regarding the ingress/egress for this property.

Dean Missick, 1330 E. 58th St., stated that his concern is for the stormwater drainage in the area. He informed the Board that all of the lots drain toward the mini-storage. He had to raise the elevation of his property for his mini-storage business.

Applicant's Rebuttal:

The applicant stated they do not intend to store cars. They have no plans to change or add anything, just to use it as it is now. The site plan identifies the details.

Comments and Questions:

Mr. Dunham asked if they plan to park cars for sale on the unpaved area. The applicant responded that is what they request even if it is for a limited use of time.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit auto sales in a CS district and vehicle repair in preparation for sale, on condition specifically that no body work, auto painting, or major engine work be allowed, and that vehicles offered for sale would have to be on a paved parking area, finding that it will be in harmony with the spirit and intent of the Code,

Case No. 18815 (continued)

and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and to **DENY** a ***Special Exception*** to permit storage or display of motorized vehicles on gravel located behind the building setback line, on the following described property:

Lot 8, less W 15' thereof and Lot 9 less W 15' thereof, St. Southlawn Addition, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18816

Action Requested:

Special Exception to permit Use Unit 5 church and accessory uses in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Variance of the all weather surface requirement for the church parking lot. SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS; a Variance of required setback from centerline of East 11th Street from 85' to 57'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of required setback from abutting R district from 25' to 5'. SECTION 404.F.4. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located 13902 E. 11th St.

Presentation:

Lou Reynolds, 2727 E. 21st St., stated that he met with the members of the Church of God, and they desired to amend the application to withdraw the request to move front yard setback from 85' to 57'. He submitted a site plan (Exhibit H-1) and photographs (Exhibit H-2) to the Board. He stated that the property has been used for a church for years, two other churches are down the street and it appears to have been harmonious to the neighborhood. He stated they do not have much more room to place the sanctuary without getting into the floodplain.

Comments and Questions:

Ms. Turnbo asked why they could not pave the parking area. He replied that it would be over the lateral lines and would not allow evaporation. He explained that the type A gravel used minimizes dust and allows evaporation.

Interested Parties:

Bob Wilson, 1129 E. 26th Pl., stated he was in favor of the Variance. He has mowed the property and wanted to confirm that very little dust comes from the type of gravel used there.

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit Use Unit 5 church and accessory uses in an RS-3 district, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; a **Variance** of the all weather surface requirement for the church parking lot; and a **Variance** of required setback from abutting R district from 25' to 5', subject to meeting all of the landscaping and parking requirements, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and a **Variance** of required setback from centerline of East 11th Street from 85' to 57' was withdrawn by the applicant, on the following described property:

Lot 5, Block 3, Eleventh Street Acres, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18817

Action Requested:

Special Exception under Section 301, Table 1, and Section 401, Table 1 to permit the use of property within the AG and RM-1 zoning districts for a public high school multipurpose student activities center, a wellness center, offices, locker rooms and training facilities, a fine arts center and additional parking subject to approval by the Board of the site plans as shown on Exhibit B and Exhibit C hereto, and subject to street frontage and parking area landscaping in accord with the Landscape Chapter of the Zoning Code. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT and SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance of the off-street parking spaces required in Use Unit 5, Section 1205.C of the Zoning Code to permit a minimum of 1800 spaces to satisfy the combined off-street parking requirements for the existing and proposed academic and athletic facilities as shown on Exhibits B and C. SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements, located W side of S. Mingo Rd. at E. 66th St.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, stated he represented the Union School District. He added that Cathy Burton, Superintendent of Schools, members of her staff, and members of the design team that are working on this project were present with him. The application is for two purposes: to permit the additional facilities in two phases, and to increase the number of parking spaces needed in connection with the addition of bleachers in the football stadium.

Comments and Questions:

The Board was familiar with this request in connection with the action taken at the previous hearing. Neither the Board nor staff had any questions.

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE a Special Exception** under Section 301, Table 1, and Section 401, Table 1 to permit the use of property within the AG and RM-1 zoning districts for a public high school multipurpose student activities center, a wellness center, offices, locker rooms and training facilities, a fine arts center and additional parking subject to approval by the Board of the site plans as shown on Exhibit B and Exhibit C hereto, and subject to street frontage and parking area landscaping in accord with the Landscape Chapter of the Zoning Code, 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; and a **Variance** of the off-street parking spaces required in Use Unit 5, Section 1205.C of the Zoning Code to permit a minimum of 1800 spaces to satisfy the combined off-street parking requirements for the existing and proposed academic and athletic facilities as shown on Exhibits B and C, per plan, on the following described property:

NE/4 SE/4 and the N 400' of the SE/4 SE/4, Section 1, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18818

Action Requested:

Variance from the 50' setback from the centerline of an abutting street to 2' from an abutting street right-of-way line. 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 1; a Variance from the 25' setback requirement for a building abutting a non-arterial street to 9'. SECTION 1302. SETBACKS; a Variance from 25' + 1' of setback for each 1' of building height exceeding 15' from abutting properties in an R district, to a setback of 30'. SECTION 1201.C.2.c. USE UNIT 1. AREA-WIDE USES BY RIGHT, Use Conditions; a Variance in the minimum setback for parking lots from an RS district from 25' to 5'. SECTION 1201.D. USE UNIT 1. AREA-WIDE USES BY RIGHT, Off-Street Parking and Loading Requirements; a Variance from the parking spaces requirement of 1 per 800 square feet plus 1 per 4 stadium seats, reducing the requirement from 1,553 spaces to 995 space. SECTION 1201.D. USE UNIT 1. AREA-WIDE USES BY RIGHT, Off-Street Parking and Loading Requirements; and

a Variance in the maximum structure height in an RS-3 zoned area from 35' to 40' for the new Classroom Building, and to 55' for the new Auditorium. SECTION 1201.C.2.c. USE UNIT 1. AREA-WIDE USES BY RIGHT, Use Conditions, located at Trenton Ave. and Woodrow Pl.

Presentation:

Darin Ackerman, 6111 E. 32nd Pl., with Sisemore, Weisz & Associates, Inc., representing the Tulsa Public Schools for this request. He pointed out that these variance requests are for some demolition and construction on the Booker T. Washington High School campus. He stated that they have met several times over the last year and a half with neighborhood property owners, school representatives, architects, and city staff regarding the construction on this site.

Protestants:

None.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** from the 50' setback from the centerline of an abutting street to 2' from an abutting street right-of-way line; a **Variance** from the 25' setback requirement for a building abutting a non-arterial street to 9'; a **Variance** from 25' + 1' of setback for each 1' of building height exceeding 15' from abutting properties in an R district, to a setback of 30'; a **Variance** in the minimum setback for parking lots from an RS district from 25' to 5'; a **Variance** from the parking spaces requirement of 1 per 800 square feet plus 1 per 4 stadium seats, reducing the requirement from 1,553 spaces to 995 space; and a **Variance** in the maximum structure height in an RS-3 zoned area from 35' to 40' for the new Classroom Building, and to 55' for the new Auditorium, per plan, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

A tract of land being all of Blocks 1 and 2, Carver Heights Second Addition; and all of Lots 4 - 12 in Block 1, and all of Blocks 2 - 5, all in Coots Addition; and all of Block 1 Trenton Arms, a re-subdivision of Lots 1 - 5 and 18 - 22 of Block 6, Coots Addition; and all of Blocks 1 and 2, Carver Heights Third Addition, and all that part of N. St. Louis Ave. E lying Nly of the N right-of-way line of E. Woodrow Pl. N and Sly of the S right-of-way line of E. Zion St. N; and all that part of N. Trenton Ave. E lying Nly of the Sly line of Lot 7, Block 1, Trenton Arms and Nly of Lot 5, Block 5, Coots Addition; and Sly of the Nly line of Lot 4, Block 2 and Lot 4, Block 1, Coots Addition; and all that part of E. Woodrow Pl. N lying E of the Ely right-of-way line of N. St. Louis Ave. E and W of the Ely line of said Coots Addition; and all that part of E. Young St. N, lying Ely of the Wly line of said Carver Heights Second Addition and Carver Heights Third Addition, and Wly of the Ely line of said Coots Addition; and the

Case No. 18819

Variance of 150' street frontage requirements, for 4 lots with frontage as follows: Tract 1 – 140'; Tract 2 – 120'; Tract 3 – 0'; Tract 4 – 123.75'. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located 9727 E. 31st St.

Presentation:

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Case No. 18819 (continued)

has zero frontage on 31st Street, therefore the applicant would ask for a mutual access easement into Tract B or D.

Comments and Questions:

Mr. Cooper asked what the hardship would be. Mr. Sack stated it would be the floodplain issue and that Tract C has already been cut off.

Protestants:

None.

Board Action:

On **MOTION** of **Cooper**, the Board voted 4-0-1 (White, Turnbo, Perkins, Cooper "aye"; no "nays"; Dunham "abstained"; no "absences") to **APPROVE** a **Variance** of 150' street frontage requirements, for 4 lots with frontage as follows: Tract 1 – 140'; Tract 2 – 120'; Tract 3 – 0'; Tract 4 – 123.75', subject to Tract 3 recording a plat for mutual access to Tract 2 or Tract 4, per plan, finding the hardship that floodplain makes the back tract unusable, on the following described property:

Lot 4 and Lot 5, Block 1, and the west 120.75' of Lot 1, Block 2, Longview Lake Estates Center Addition Amended, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18820

Action Requested:

Special Exception to the 4' height requirement of Section 210.B.3. SECTION 210.B.3. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located 3442 S. Atlanta Pl.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he is representing the applicant, Robert R. Peters, II, at the request of Mr. and Mrs. Jim Pielsticker. He stated they desire to build a 5' 3" iron perimeter fence. He submitted plans, map, and letters of support, and a letter withdrawing their signature of protest on a petition (Exhibit L-1, L-3). The fence would be constructed of stone columns and wrought iron screening and security fence.

Protestants:

Rodney Edwards, 6120 S. Yale, came to represent Frank and Bonnie Henke, who reside at 3449 S. Atlanta Pl., and own another house at 3455 S. Atlanta Pl. He submitted petitions of protest with a color chart (Exhibit L-2). He pointed out that the neighborhood was platted before the city limits of Tulsa reached 36th and Lewis. It has very large lots with houses set back well off the street, with asphalt streets without curbs, and no existing front yard fences. He indicated that the site plan appears to be more wall than fence, with stone posts of 6' 3" high, 20" across,

and gateway posts of 7' high, and 30" across. He stated that on the front of the property there would be 17 of these posts. The neighbors were concerned that this would set a precedent for others to build such fences.

David Bradshaw, 3428 S. Birmingham, stated his appreciation of the openness of the neighborhood area. He added that people ride bikes through the area; the neighborhood has not had security issues; and the fence would look inappropriate in this area.

Kathryn Bradshaw spoke for Mary Ann who lives at 3437 S. Birmingham, stated that the gates obstruct the view.

Bob Boswell, 3404 S. Atlanta Pl., stated he lives two houses north of the subject property. He does not want to see the fence built but if it were, he would ask that it be constructed within the restrictions of the ordinance.

Applicant's Rebuttal:

Mr. Norman directed attention to the site plan and explained how the fence would be constructed so that there is a clear view through the iron palings. He stated that security is an issue. Mr. Pielsticker travels extensively, the main house is set back 270' and property has been stolen. The fence is constructed with pointed tips on the wrought iron palings to highly discourage someone from climbing over the fence.

Comments and Questions:

Ms. Perkins commented that five people had signed a petition of opposition and then changed their minds a few days later and informed the Board.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to the 4' height requirement of Section 210.B.3, 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, on the following described property:

Part of Lot 4, Block 4, Oakview Estates, Beg. SE/c W 181.2' on SL NEly 138.77' to a point 30' S of NL E 237.88' to a point on EL 30' S of NE/c SWly 169.68' on a curve to POB Block 4; **AND** Lot 4 less Beg. SE/c W 181.2' on SL NEly 138.77' to a point 30' S of NL E 237.88' to a point on EL 30' S of NE/c SWly 169.68' on a curve to POB Block 4; **AND** a tract of land that is part of Lot 5, Block 4, Oakview Estates, being more particularly described as follows, to-wit: Starting at the NW/c of said Lot 5; thence N 89°24'34" E along the Nly line of said Lot 5 for 217.00' to the POB of said tract of land; thence continuing N 89°24'34" E along the Nly line of said Lot 5 for

Case No. 18820 (continued)

251.51' to the NE/c of said Lot 5 also being on the Wly right-of-way line of S. Atlanta Pl.; thence S 33°02'35" W for 0.00' to a point of curve; thence SWly along the Ely line of said Lot 5 along a curve to the left with a central angle of 13°23'44" and a radius of 656.22' for 153.42"; thence N 82°54'45" W for 164.65"; thence N 10°00'53" W for 116.03' to the POB of said tract of land, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18821

Action Requested:

Variance of the required side yard from 15' to 5' to permit a carport. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; and a Variance of the required side yard from 15' to 12' to permit an existing encroachment. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2686 E. 38th St.

Presentation:

The applicant, **Mark Nelson**, 1927 S. Boston, Suite 207, stated that the existing encroachment was discovered when applying for this variance. He added that they could build the carport in the backyard, but there are some large trees in the backyard. It will not be a metal carport but will be designed and constructed with materials to match the house. They prefer to build it at the side of the house for ease of access

Comments and Questions:

Ms. Turnbo asked if it would be attached to the house. Mr. Nelson stated he was told it is not allowed, so they did not plan to attach it. He submitted pictures (Exhibit M-1).

Protestants:

None.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the required side yard from 15' to 5' to permit a carport, finding it is done to protect a very large tree; and a **Variance** of the required side yard from 15' to 12' to permit an existing encroachment, finding it was built before the ordinance, on the following described property:

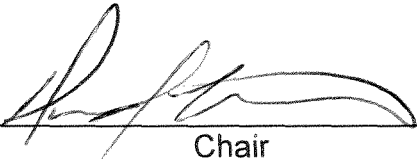
Beg. at the NE/c of the S/2 SW/4, Section 20, T-19-N, R-13-E, thence S along the E boundary of said SW/4 330'; thence W parallel with the N boundary of said S/2 SW/4 145' for a place of beginning; thence N 305' parallel with the N boundary of the S/2 SW/4 140'; thence in a Sly direction 305' to a point 133' W of the POB; thence E and

Case No. 18821 (continued)

parallel with the N boundary of the S/2 of the SW/4 133' to the POB, City of Tulsa,
Tulsa County, State of Oklahoma.

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

Date approved: SEPTEMBER 12, 2000


Chair