

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 808
Tuesday, November 28, 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
Turnbo
White, Chair
Perkins

Beach
Butler

Prather, Legal

The notice and agenda of said meeting was posted in the Office of the City Clerk on Wednesday, November 22, 2000, at 10:57 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 1:00 p.m.

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Case No. 18923

Action Requested:

Variance of setback requirements for parking and structure parking. SECTION 1302.B. SETBACKS; a Special Exception for church use. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance of height limitation from 35' to 51'. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located 4102 East 61st Street.

Presentation:

Mr. Beach stated that **Robert L. Triplett, Chairman of Architectural Committee, Livingston Park Homeowners Association**, made a timely request for Continuance. Mr. Coutant requested 01-09-01 for hearing date. Mr. Dunham commented that there is just one meeting in December, and it seemed January would be too long. Mr. Triplett responded that matters were complex, changing frequently, and the holidays were coming up.

Mr. Cooper in at 1:05.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; Cooper "abstained"; no "absences") to **Continue** Case 18923 to the next hearing date December 12, 2000.

UNFINISHED BUSINESS

Case No. 18896

Action Requested:

Special Exception to permit a Bed and Breakfast Inn in an OL zoned district. SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS – Use Unit 2, located 1819 E. 15th St.

Presentation:

Darrell Brown, 7204 E. 90th Pl., stated he represented the applicant. The application was for a Bed and Breakfast in an older home previously occupied by Family Services. He described it as having seven bedrooms with bathrooms upstairs, kitchen and meeting rooms downstairs. There are 15 parking marked spaces by actual count on the property itself. The offices along this street have contiguous drives; common drives, cross parking agreements.

Comments and Questions:

Mr. Dunham commented that the site plan includes more property than what was advertised for this hearing. Mr. Brown stated that the owner produced the site plan, and it shows that there are two buildings on the site. Mr. Brown stated the request is only for the house at 1819 E. 15th. Mr. White asked if the legal description covers the request. Mr. Beach replied that it does. Mr. Cooper asked about what kind of signs are planned. Mr. White commented that there is a limit of 32 square feet and 20' high. Mr. Brown responded that they would not be requesting anything additional to those requirements. Mr. Prather pointed out the Code requires the Board to approve the size, type and location of the sign, even if it does not exceed the parameters. Mr. Brown pointed out that this application is preliminary to the lease on the property and they would have to come back for the sign anyway. Ms. Turnbo asked if there would be residents that will live on the premises. Mr. Brown replied there would not. Ms. Turnbo noted that staff comments stated that only four of the seven bedrooms would be used for guests and no special events would be held there. Mr. Brown responded that was incorrect. Mr. Beach stated that was how the application was filed, although the notice did not include those details so the Board is not tied to them for this hearing. There was further discussion regarding required parking spaces and special events to be determined later when all information is available.

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 a Bed and Breakfast Inn in an OL zoned district, on condition that there be no more than 24 special events per year, that the balance of the

Case No. 18916

Action Requested:

Special Exception to allow a community group home for children and adolescents 8-18 temporarily housed prior to foster care, adoption or re-unification with family or to independent living. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 8, located W of SW/c W. 51st St. & S. Union.

Presentation:

Mark Jackson, 6774 E. 66th Pl., shared a brief history. He stated he was a past administrator of Children's Medical Center. Upon hearing of the closing of the group home, he and a business partner purchase that business and have been searching for a new site for the group home. Their preference would be to place the children in single-family dwellings, but they understand the difficulties that presents. He informed the Board that they have contacted the business owners around the proposed site, and have received support and acceptance as new neighbors.

Comments and Questions:

Mr. Dunham asked about the capacity for this proposed home. Mr. Jackson responded that the capacity of the motel is 40 units, and the contract with the state is for 36 children.

Interested Parties/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 allow a community group home for children and adolescents 8-18 temporarily housed prior to foster care, adoption or re-unification with family or to independent living, 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:

Lot 1, Block 1, Frisco Center, a subdivision of part of the E 150' of the W 200' of the W/2, W/2, NE/4, NE/4 of Section 34, T-19-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18917

Action Requested:

Special Exception of the allowable height for a fence in the required front yard from 4' to 6'. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located 4972 S. Newport Ave.

Presentation:

Estelle Manes, 4972 S. Newport Ave., stated that she bought her home in 1978. She stated there was a chain link fence in the back yard that was falling down. In 1991, Ms. Manes talked with Ms. Belew, her neighbor about replacing the fence and her neighbor had no objection. She added that there have never been any complaints until this past fall, when she received a note from this same neighbor. She indicated that in August she found her neighbor cutting her vine on the fence, and it died. The applicant had her attorney write a letter to the neighbor (Exhibit B-2) as she did not feel she could communicate with her. Ms. Manes described the fence as being 16' 9" from the curb, begins at 4' and as it goes back on the property, it increases to 6', by survey it is located on Ms. Manes property on either side except the last couple of feet where it stands on joint property where it attaches to the back fence. She submitted photographs of the fence and property (Exhibit B-1).

Interested Parties:

Nancy Apgar, 3914 S. Norfolk, President of the Brookside Neighborhood Association, stated that the association took a poll of the neighborhood regarding this fence. She stated that the fence has been there for nine years, and there has been no complaint. She added that it does not obstruct vision for people pulling out of the driveway.

Protestants:

Pauline Belew, 4966 S. Newport Ave., described the fence as standing less than four feet from her house and complained that the vine was growing from the fence onto her own house, and had been trimming it every year for the last four years. She stated that she objects to the portion of the fence in the front yard, because people can walk up and she can't see them until they are right in her yard.

Comments and Questions:

Mr. Cooper asked if she or anyone in her household agreed to the fence that Ms. Manes put up. Ms. Belew replied that she was not informed the fence would extend into the front yard, and she did not agree to that. Mr. Cooper asked why this matter is just now coming to the Board. She did not realize there was anything she could do to stop the construction of the fence, and she could not afford to make a legal complaint at that time. Ms. Perkins asked how she knew to come to the Board now. She explained that she went to an attorney and was advised to attend.

Applicant's Rebuttal:

Ms. Manes stated that she did discuss the fence with Ms. Belew, and that it would take about a week to construct it. Ms. Belew told her she was glad to have a nice fence up that would prevent utility people from climbing over and breaking down a chain-link fence. Mr. Cooper asked if there was any doubt in her mind that Ms.

Case No. 18917 (continued)

Belew could have misunderstood where the fence would go or unsure about how high it would be, or how it would obstruct her view in the front yard. He asked if she felt like she had discussed the details completely with her. Ms. Manes agreed she felt like she had discussed the details clearly. Ms. Manes stated she had not had any complaints about it in the nine years since it was built.

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** of the allowable height for a fence in the required front yard from 4' to 6', per plan of existing fence, 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 15, Block 18, Riverview Village B 14-20, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18918

Action Requested:

Variance of 1200' spacing requirement between outdoor advertising signs to permit existing sign 600' from other sign, SECTION 1221.F.2. USE CONDITIONS FOR OUTDOOR ADVERTISING SIGNS, located East of Northeast corner of East Admiral Boulevard and South Rockford.

Presentation:

John W. Moody, attorney stated this application was before the Board on October 10, 2000 to apply for a Variance of 600' requirement before discovering that there was another existing sign. He stated that they would now like to replace the sign with a monopole construction. He added that it is a legal non-conforming sign.

Comments and Questions:

Mr. White asked if anything else has changed since the first application. Mr. Moody replied nothing has changed.

Interested Parties:

Joe Cataris, 9804 S. Louisville, just wanted to inquire if this would have any effect on the value of his property just behind the subject property.

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 1200' spacing requirement between outdoor advertising signs to permit existing sign 600' from other sign, per plan, finding it will not cause

Case No. 18918 (continued)

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:

Lot 14, Block 7, Lynch and Forsythe's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18920

Action Requested:

Variance of the setback from the rear property line at West 5th Street from 25' 5 to 22'8", located 541 South 43rd West Avenue.

Presentation:

David Simmons, architect, stated they are working on the new Mark Twain School site.

Comments and Questions:

Mr. White asked if the old building would be torn down. Mr. Simmons replied that it would after the new one is built. The staff comments asked since the variance is so minor, why couldn't the building be redesigned to meet the requirement. Mr. Simmons responded that it was drawn with a reduction of classroom sizes. The new construction will be so close to the old building during the construction period, and they did not want to come any closer than eight feet during that time. He added that utility lines would be run through that small area with new electrical feed causing a very restricted space.

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 the setback from the rear property line at West 5th Street from 25' 5 to 22'8", per plan, finding the hardship to be the safety and welfare of the children in the existing school, on the following described property:

Block 15 and 16 of Verndale and vacated South 42nd West Avenue, City of Tulsa, Tulsa County, State of Oklahoma.

Chair White announced he would abstain in Case No. 18921. Chair White out at 2:03.

Case No.18921

Action Requested:

Variance of requirement that townhouse dwellings must be attached by a common party wall. SECTION 1207a.C.1.f. USE UNIT 12a. TOWNHOUSE DWELLING; and a Variance of required side yards in a townhouse development from 5' to 1.6', 3.1', 4.8', and 4.9' SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located 3731 South Riverside Drive.

Presentation:

John Moody, attorney, stated he represented David Nelson. He informed the Board that the City had issued building permits for the previous owners. When Mr. Nelson purchased the property he was told that the permits had expired and he obtained new permits. The Building Inspector came to the site and raised questions after the building was over 2/3 erected. He read the Zoning Code Section 403 A.6 that side yards shall not apply to interior lot lines of townhouse developments. He stated that he found no requirement that the townhouse must be attached. He felt that in this case the Building Inspector was mistaken in respect to this requirement. However, his client did request a variance of the side yards between the two units and the one unit. The reason he didn't connect all three is that the space that goes between the units is a walkway that provides access to doorway to the middle unit. The lots are approximately 25' in width, and each unit has a two-car garage. He pointed out that this is the reason that the front doors needed to be placed on the side rather in the front of the house. Mr. Moody noted that there are two parking spaces in the driveways in front of the two-car garages, and Lot 4 is a common lot, and each unit has an easement to that lot for driveway and four marked parking spaces. Mr. Moody stated that the concrete was not poured quite wide enough, therefore, he requests a variance on the exterior side yard from 5' to 4.8' and 4.9'.

Comments and Questions:

Mr. Beach pointed out the Zoning Code Section 1207a.C.1.f that a single-family attached townhouse dwelling shall be attached by a common wall or walls to another townhouse dwelling unit. Mr. Moody responded that as he has shown the design was to give an entry to the house other than through the garage, and he does not believe it violates the intent of the zoning code in respect to townhouse development. Mr. Cooper asked what the hardship would be for the first variance. Mr. Moody replied the hardship would be the narrowness of the lot.

Interested Parties:

Nancy Apgar, stated that the Brookside Neighborhood Association supports the application, and consider the development a fine addition to the neighborhood.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a **Variance** of

Case No. 18921 (continued)

requirement that townhouse dwellings must be attached by a common party wall; and a **Variance** of required side yards in a townhouse development from 5' to 4.8' and 4.9', per plan, finding the hardship to be the narrowness of the lots, on the following described property:

Lots 1-3, Block 1, Tower Court, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18922

Action Requested:

Variance to permit 4 business signs on a lot with non-arterial street frontage. SECTION 1221.C.9.a. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING; General Use Conditions for Business Signs; and a Variance of the required setback for a sign that exceeds 25' in height in the CS district. SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING; CS District Use Conditions for Business Signs, located 3112 South 79th East Avenue

Presentation:

Kishor Mehta, 7826 S. Urbana, stated they are requesting 40' high sign for visibility from all angles. Mr. Mehta submitted a signage brochure and photographs (Exhibits F-1 and F-2).

Comments and Questions:

Mr. Dunham pointed out that staff comments stated the requirement for additional setback of one foot for every foot of height above 25', and this sign would not meet the requirement. Mr. Dunham asked what the hardship for variance of the height. Mr. Mehta responded that the sign would not be visible from certain angles. Mr. Beach pointed out different interpretations for the Code regarding this case, in the Board discussion.

Interested Parties/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** to permit 3 business signs on a lot with non-arterial street frontage, finding the hardship to be that the same relief has been granted in this area in other cases; and to **DENY** a **Variance** of the required setback for a sign that exceeds 25' in height in the CS district, for the following described property:

All that part of Lot 3, Interchange Center, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, lying in the NE/4 of Section 23, T-19-N, R-13-E of the IBM, more particularly described as follows, to-wit: commencing at the NE/c of said

Case No. 18922 (continued)

Section 23; thence due W a distance of 1,206.93'; thence due S a distance of 692.34' to a point in the SEly right-of-way of I-44 (Skelly Dr.) and the NWly boundary of said Lot 3; thence S 41°04' 30" E a distance of 240.28'; thence S 20°23'03" E a distance of 50.00' to a point in the Nly right-of-way line of S. 79th E. Ave.; thence N 69°36'57" E a distance of 0.00'; thence on a curve to the right with a radius of 390.00' along said S. 79th E. Ave. right-of-way line a distance of 139.15'; thence S 89°56'27" E a distance of 52.81' to the POB; thence N 0°00'00" E a distance of 159.83'; thence N 45°0'0" E a distance of 221.79' to a point in the SWly right-of-way line of E. 31st Ct. S.; thence S 41°23'34" E along said right-of-way line a distance of 120.42'; thence S 10°23'35" W a distance of 138.54'; thence on a curve to the right having a radius of 110.00' a distance of 152.95" thence N 89°56'27" W a distance of 103.15'; to the POB.

Case No. 18925

Action Requested:

Variance of the frontage requirement in a CS zoned district to permit the creation of lots with 0' frontage. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located North of the Northwest corner Highway 169 and East 21st Street South.

Presentation:

Bruce Bolzle, 5550 S. Lewis, with KMO Development Group, stated he represented the applicant. They seek a variance of the frontage requirement for a deep tract of 7.7 acres. It has adequate frontage on East 21st Street for development, but a majority of the width abuts the Mingo Valley Expressway. He called the Board's attention to a street that was developed when K-Mart was built to City standards, that is in good condition with a curb and gutter, but was not dedicated. It is named on the City atlas as S. 103rd E. Ave. There is access agreement between K-Mart and all abutting owners as to access and use of the street. A community organization requested a portion of property in this area that prompted a study by a consulting firm. Tanner Consulting did a study of the property and found: that a major portion of the tract is in the flood plain; the tract could be subdivided for development provided that a portion was used for storm water detention and compensatory storage requirements; the creek would have to be improved and channeled; and the balance could be brought up out of the flood plain and adequately used both to a gift to the community organization and for development for commercial use.

Interested Parties/Protestants:

None.

Case No. 18925 (continued)

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 the frontage requirement in a CS zoned district to permit the creation of lots with 0' frontage, finding the hardship to be the configuration of the lot, and that there is a mutual access street to all three tracts, on the following described property:

A tract of land that is part of Lot 1, Block 1, Magic Circle South Addition, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, said tract being more particularly described as follows: Beg. at the NE/c of said Lot 1; thence along the Ely line of Lot 1 for the next 4 courses: S 25°16'20" E for a distance of 247.61' to a point; thence S 1°35'20" E for a distance of 424.41' to a point; thence S 14°34'20" W for a distance of 443.22' to a point; thence S 1°38'40" E for a distance of 43.98' to a point, said point being the NE/c of Lot 2, said Block 1; thence N 90°00'00" W along the Nly line of said Lot 2, for a distance of 175.69' to a point; thence S 0°00'00" W along the Wly line of Lot 2, for a distance of 150.00' to a point, said point being the most Sly SE/c of Lot 1 and the SW/c of Lot 2; thence N 90°00'00" W along the Sly line of Lot 1, for a distance of 150.00' to a point; thence N 26°33'54" E for a distance of 22.36' to a point; thence N 0°00'00" E and perpendicular to said Sly line, for a distance of 200.00' to a point; thence N 45°00'00" E for a distance of 169.64' to a point; thence N 0°00'00" E and perpendicular to the Sly line, for a distance of 931.17' to a point on the Nly line of Lot 1; thence S 89°59'19" E along said Nly line, for a distance of 188.52' to the POB.

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Case No. 18926

Action Requested:

Variance to allow required parking on a lot other than the lot containing the principal use. SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS, located SW of E. 21st St. & S. Atlanta Pl.

Presentation:

The applicant was not present. The case was tabled until later in the hearing.

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 **Continue** Case 18926 to the next hearing on December 12, 2000.

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Case No. 18930

Action Requested:

Variance of minimum lot width in RS-3 district from 60' to 52.5'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit, located SW/c E. 8th St. & S. Norfolk Ave.

Presentation:

Jeff Dunn, 1723 E. 71st, attorney, stated that his firm is counsel to the American Lung Association. He submitted a memo and schematic diagram (Exhibit H-1) to the Board. He pointed out the location of Lots 6, 7, and 8, Block 4, at 8th and Madison Ave., with the western 7.5' of Lot 3. The hardship is that a portion of the property is zoned RS-3, but it has never been utilized as residential and the size and dimension of the lot.

Comments and Questions:

Mr. Dunham summarized the plans that the applicant intends to preserve the historical building, and needs to get approval of the footage to facilitate the lot split.

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 minimum lot width in RS-3 district from 60' to 52.5', finding that there are a number of other smaller lots in the area, on the following described property:

Lot 3, Block 4, Oaklawn Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18926

Action Requested:

Variance to allow required parking on a lot other than the lot containing the principal use. SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS, located SW of E. 21st St. & S. Atlanta Pl.

Presentation:

The applicant was not present. The case was tabled earlier.

Protestants:

None.

Case No. 18926 (continued)

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 **Continue** Case 18926 to the next hearing on December 12, 2000.

Case No. 18899

Action Requested:

Request for Reconsideration of a Variance of front building line requirement of 25' to 5' for construction of a carport; and a Variance to allow a detached accessory building in the front yard.

Presentation:

Barbara Bowders, 2877 E. 44th Pl. N., stated that she owns her home at this address. She submitted a copy of her health and medical information and photographs of carports in the neighborhood. (Exhibits I-1 and I-2).

Comments and Questions:

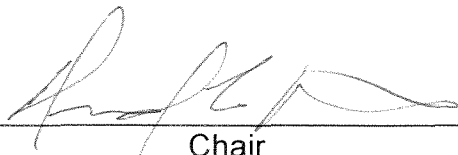
Ms. Perkins asked if there was any reason they could not put a single carport on the side of the house. Ms. Bowders replied there is a storage building and there is no room. Ms. Perkins asked if she was saying that she would not move the building to the back yard. Ms. Bowders replied that there is a tree in the way and they would just have to tear the building down. Mr. Cooper asked if she was saying there are not 5 yards between the tool shed and the lot line. Ms. Bowders responded that there might be 5 yards, but she could not fit her Bronco in that. Mr. Cooper explained to her that was plenty of room to park a vehicle and have room left.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-1-0 (White, Turnbo, Perkins, Cooper "aye"; Dunham "nay"; no "abstentions"; no "absences") to **DENY** the ***Request to Reconsider*** Case No. 18899, finding there is adequate footage to build a carport in the side yard with no relief needed.

There being no further business, the meeting was adjourned at 3:06 p.m.

Date approved: DECEMBER 12, 2000



Chair

