

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 813
Tuesday, February 27, 2001, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT MEMBERS ABSENT STAFF PRESENT OTHERS PRESENT

Dunham, Vice Chair Perkins Turnbo White, Chair	Cooper	Stump Butler	Boulden, Legal Akermann, Zoning Official
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The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Wednesday, February 21, 2001, at 11:20 a.m., as well as at the City Clerk's office, City Hall.

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

Case No. 18883

Mr. White announced that **the applicant withdrew Case No. 18883.**

MINUTES:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of February 13, 2001 (No. 812).

UNFINISHED BUSINESS

Case No. 18966

Action Requested:

Special Exception to modify the screening requirement along lot lines abutting an R zoned district. SECTION 212. SCREENING WALL OR FENCE, located SE of E. 21st St. & 129th E. Ave.

The Chair stated Mr. Dunham would abstain.

Presentation:

Ricky Jones, 5323 S. Lewis, requested additional advertising of this case to modify the screening on the subject property. The applicant desires to move the screening fence between the proposed buildings rather than to place it on the property line. The paved portion of the street is narrow and would cause a 'tunnel effect'.

Interested Parties:

James Mautino, 14628 E. 12th St., asked the Chair if he has certified to the Court Clerk that a stay would cause imminent peril to life or property. He stated that an appeal has been filed on Case No. 18966.

Comments and Questions:

Mr. White replied that he has not and asked Mr. Boulden, the legal council to address the question. Mr. Boulden stated that a stay has not been filed and the appeal is to a previous action of this board and this is a separate action. Mr. Mautino responded that does not agree with the Zoning Code. Mr. Stump explained that section does not apply to this case, because there has not been an appeal of this action, since it has not been made yet. The Chair noted that even though the case number is the same, they are different actions.

Board Action:

On **Motion of Turnbo**, the Board voted 3-0-1 (White, Turnbo, Perkins "aye"; no "nays"; Dunham "abstained"; Cooper "absent") to **APPROVE** a ***Special Exception*** to modify the screening requirement along lot lines abutting an R zoned district, per plan, finding it is a difficult piece of property, under O zoning, and 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:

A tract of land that is a part of Lot 2, Block 1, Mizel Center, City of Tulsa, Tulsa County, State of Oklahoma, said tract being more particularly described as follows: Beg. at the SE/c of said Lot 2; thence S 89°52'17" W along the Sly line of Lot 2, for a distance of 255.00' to a point; thence N 0°00'06" E and parallel with the Ely line of Lot 2, for a distance of 395.69' to a point; thence N 89°52'45" E and parallel with the Nly line of Lot 2, for a distance of 255.00' to a point on said Ely line; thence S 0°00'06" W along the Ely line, for a distance of 395.66' to the POB.

NEW APPLICATIONS

Case No. 18986

Action Requested:

Special Exception to allow a home occupation in an RS-1 zoned district. SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS, located 5824 E. 100th Pl. S.

Presentation:

Brad Fuller, 20 E. 5th, Suite 200, attorney for Doyle D. and Joann Junker, submitted photographs and advertising samples (Exhibits B-1 and B-2) to the Board. He stated the request is for a home occupation for an embroidery business, which at a less intense level is allowed by right. A building permit was obtained to build the pool house.

Comments and Questions:

Ms. Turnbo asked if it was built as a garage/hobby area. Mr. Fuller replied it was built as a pool house/garage. Mr. Dunham asked if the applicant has seen the staff comments. He suggested Mr. Fuller address the questions from staff.

Mr. Fuller would be willing to limit traffic to two to three cars per day, and two deliveries per week. This property is near the outside of the neighborhood and the building can be seen from 101st Street, and one block from the access street into the neighborhood. Mr. White asked how many employees would be involved. Mr. Fuller replied it would just be Mr. and Mrs. Junker. The Chair also noted that two other addresses were listed for this business, on S. Mingo and 97th Pl. Mr. Fuller pointed out there are other home occupations in the neighborhood and even another embroidery business that advertises in the neighborhood association newsletter. He stated that they do not advertise even on their cars, which they could by right. He stated they would be willing to keep the hours of operation limited to 9 to 5, and put up screening fences if required. Ms. Turnbo asked if the applicants understand they cannot have someone else come in and help them with the business. Mr. Fuller responded that they understand. He added that they deliver a lot of their own work. Ms. Turnbo asked if the other home occupations in the neighborhood that Mr. Fuller mentioned were in the main residence or in an accessory building. Mr. Fuller responded that he understood them to be within the main residences.

Interested Parties:

Doyle Junker, 5824 E. 100th Pl., stated he is the applicant. He stated his wife really enjoys her business and they have tried to keep the traffic down. He explained that it is a quiet business and not disruptive.

James D. Williams, 9717 S. Braden, stated that he sign the petition titled rezoning request when someone brought it to his door. He later discovered the petition had misinformation and regretted having signed it. He spoke with the applicants and the nearest neighbors and found no problem with the application. He stated that he has no problem with the business.

Stan Thompson, 5811 E. 100th Pl., stated he lives across the street from the applicants. He stated he has not seen excessive traffic, no noise, and he was in support of the application.

Jan Draper, 7456 E. 49th St., stated she is a customer of the applicant. She only delivers work to the subject property once every two to three weeks. The largest truck she has ever seen at the subject property was a UPS truck. She stated the numbers of cars parked there at any one time are similar to a bridge party.

Joann Junker, 5824 E. 100th Pl., stated she started this business a number of years ago. She added that the president of the neighborhood association had asked her if she would like to advertise in their newsletter. Ms. Junker stated that she did not realize there would be such objection, and understood that her home occupation was by right.

Comments and Questions:

Ms. Turnbo asked if most of her work was more like subcontracting for other businesses. Ms. Junker replied in the affirmative. Mr. Dunham commented to the interested parties regarding the letter from the treasurer of the neighborhood association, that this is not a re-zoning case. He pointed out that this Board does not have the jurisdiction and would not be inclined to approve commercial activity in a residential neighborhood. He stated that the Board hears applications for home occupations. They are just what the name indicates, not a business, and they cannot have signage, outside employees, or anything that would indicate from the street that it is a business.

Interested Parties:

Cynthia Woodson, 9811 S. Granite Ave., stated she was the president of Sun Meadow Civic Association. She stated that she helped circulate the petition. The petition, protest letters and faxes (Exhibit B-3) were submitted to the Board at the beginning of the hearing. She commented that she had not thoroughly read the sign on the subject property at that time. Ms. Woodson added that she had no objection to the home occupation in the home, but she did object to a building over 750 square feet allowed by Code. She was called by a neighbor with a concern that a business was in operation next door to her home. Ms. Woodson saw the sign in the yard next. She asked the Board if there had been a citation because she had not contacted Neighborhood Inspections yet. Mr. Stump replied that there was a citation from Neighborhood Inspections stating they were operating a home occupation without Board of Adjustment (BOA) approval of a Special Exception. She stated that Ms. Junker asked her for a copy of the covenants, and she gave her a copy. Ms. Woodson added that there were other home occupations in the neighborhood within the homes. She stated her primary opposition was that the Junkers moved it out of their house into an ancillary building. She was concerned that the building permit showed it was for an S-1 usage, and that is for a storage building and the permit office stated for recreation. She expressed concern that it

gives the appearance of a commercial building, not a pool house. Ms. Woodson also mentioned that Mr. Junker told her and others that it would just be him, his wife and their son working there. She pointed out that the Board has made it clear that approval would not cover their son or anyone else coming to work there. She stated that she let Mr. Junker know that she did not think the building was appropriate in size and appearance for a residential neighborhood. She stated her concern that this would set a precedent. Ms. Woodson listed concerns regarding limitation of hours of operation, ingress/egress through the neighborhood, obtaining access to 101st Street, parking needs for customers/suppliers, height of the building compared to height of privacy fence. Mr. Dunham informed her that access to 101st Street would be illegal. Mr. Stump advised her that the Code allows one-story accessory buildings without any height limitation in an RS-1 district.

Mr. Dunham reminded the interested parties that the BOA cannot take any action regarding the building, and the applicants obtained a permit to build it. The BOA can only consider the request for a Special Exception for a home occupation. He asked that interested parties direct their comments to the application.

Mr. Stump asked if Ms. Woodson would estimate the principal house is 2,000 square feet. She agreed to that estimate. He referred to the required limitation she mentioned of 750 square feet. He informed her that a more recent provision allows 750 square feet or 40% of the principal structure whichever is greater. He pointed out this would allow them 800 square feet and that would accommodate the size building they have. He noted that the building was properly permitted for an accessory building.

James Gigiletto, stated he lives two houses from the applicants. He stated the petitions were passed around for all of the neighborhood association to have an opportunity to be involved. He stated there have been trucks at the subject property. Ms. Turnbo asked how many trucks came to the property on an average per week. He stated he did not know, but there were three trucks on the day of the hearing and he took pictures. She asked him what kind of trucks. He replied there was an exterminator truck, laundry truck and another he didn't recognize the name on it. He submitted the photographs (Exhibit B-4). Mr. Gigiletto asked if the building permit would have been issued if he told them he was going to do his home occupation there. Mr. Stump responded that his understanding was that even though they could build the building, he would have been advised not to use it for the home occupation until approved by the BOA.

Al Maestas, 9742 S. Joplin Pl., stated that he and his wife put together the petition. He apologized for the misinformation. He distributed the petition before he was able to contact the applicant regarding the type of business they would have. Later Mr. Junker shared with him about the home occupation and stated that he, his wife and their son would be working there. He listed the concerns of the neighbors regarding property values and the afore-mentioned objections. He

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow parking on lot other than the special event lot, June 11-18, 2001, for U.S. Open, 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:

All of Gov. Lot 8 lying E Riverside Dr. less Beg. 40' N and 433.54' W SE/c Lot 8; thence W 303.02' to E right-of-way Riverside Dr.; thence NW along right-of-way 858' NW 396.68' NW 94.12' E 64.72' SEly curve left 570.45' SE 419.03' SE 396.01' POB for highway and less E 25' for street, Section 36, T-19-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18996

Action Requested:

Special Exception to allow parking on a lot other than principle use lot for a special event (U.S. Open) from June 11 to June 18, 2001. SECTION 1303.F.4. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 5, located NE/c & SE/c E. 81st St. & Lewis Ave.

Comments and Questions:

Ms. Turnbo asked the applicant if there was a possibility they would need relief for any extra days. Mr. Worthy included June 18th as the extra day they might need.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a **Special Exception** to allow parking on a lot other than principle use lot for a special event (U.S. Open) from June 11 to June 18, 2001, 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:

Block 1, Oral Roberts University Heights and Block 1, Oral Roberts University Heights 2nd, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19011

Action Requested:

Minor Special Exception to modify a previously approved site plan and landscape plan. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located NE/c E. 25th St. & S. Peoria.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated that he gave notice to the neighbors of this request. He added that they have been supportive. Mr. Norman noted that Mr. George Sharp responded with a request that the masonry wall that face the south be increased in height to block car headlights. The applicant agrees to that modification per letter (Exhibit D-2).


Board Action:

On **MOTION of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a ***Minor Special Exception*** to modify a previously approved site plan and landscape plan, per plan, subject to modification to increase height of wall to four feet in front of parking spaces facing south as per letter submitted, on the following described property:

A tract of land beg. at a point 246' S of the NW/c of Lot 2 in Section 18, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma; running thence in an Ely direction and parallel to the N line of said lot a distance 330'; thence N 0°18' E a distance of 23'; thence in an Ely direction and parallel to the N line of said lot a distance of 121'; thence in a SEly direction an on a curve with a radius of 28' a distance of 43.49'; thence in an Ely direction and parallel to the N line of said lot a distance of 145.8'; thence S 0°18' W a distance of 109.5'; thence in an Ely direction and parallel to the N line of said lot a distance of 63.6'; thence S 0°18' W a distance of 109.5'; thence in a Wly direction and parallel to the N line of said lot to the W line of said lot; thence in a Nly direction and on the W line of said lot a distance of 224' to the POB.

There being no further business, the meeting was adjourned at 3:09 p.m.

Date approved: MARCH 13, 2001



Chair