

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 818
Tuesday, May 8, 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
Cooper
Turnbo

Perkins

Beach
Butler

Jackere, Legal
Neighborhood
Inspec.:
Parnell
Cartner
Winston

White, Chair

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Monday, May 7, 2001, at 9:20 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.

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UNFINISHED BUSINESS

Case No. 19033

Presentation:

Mr. Beach stated that the applicant has withdrawn this application.

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Case No. 19067

Presentation:

Mr. Beach stated that the applicant has withdrawn this application.

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Case No. 19039

Presentation:

The applicant, **Charles Norman**, made a request for a continuance of this case. He stated that the applicants have been meeting with property owners, but they are not prepared yet to present.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **CONTINUE** Case No. 19039 to the meeting on May 22, 2001.

Case No. 19048

Presentation:

Steven Hale, 502 W. 6th, stated that the applicant, Donald Haslam, Jr., could not attend because of a family emergency, and requested a continuance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **CONTINUE** Case No. 19048 to the meeting on May 22, 2001.

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Case No. 19061

Presentation:

The applicant, **John L. Reaves**, made a timely request for continuance to June 12, 2001.

Interested Parties:

Maria Barnes, 2252 E. 7th St., asked why the case is being continued.

Comments and Questions:

Mr. White informed the interested party that the applicant is allowed to make a timely request for continuance. Mr. Beach informed the Board that the attorney to present has court cases on the next two BOA hearing dates, May 8th and 22nd, 2001. Ms. Barnes accepted the continuance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **CONTINUE** Case No. 19061 to the meeting on June 12, 2001.

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Case No. 19041

Action Requested:

Special Exception to permit special event parking and shuttle drop-off for U.S. Open from June 10-18 located less than 50' from an R zoned district and on another lot than the principal use. SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 5, located 6677 Evanston Cir.

Presentation:

Steve Worthy, with the U.S. Open, stated that he has met with the residents of this neighborhood and informed them of the security measures and restoration of the property after the golf tournament.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **APPROVE** a **Special Exception** to permit special event parking and shuttle drop-off for the U.S. Open from June 10-18 located less than 50' from an R-zoned district and on another lot than the principal use, 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 1, Vinson Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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REQUEST FOR RECONSIDERATION

Case No. 19056

Action Requested:

REQUEST TO RECONSIDER a Special Exception to permit a parking lot in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS, located 1413 E. 15th St.

Presentation:

The applicant, **Roy D. Johnsen**, 201 W. 5th St., Ste. 501, asked for reconsideration of this case. He reminded the Board that the findings of the infill study encouraged off-street parking for the Cherry Street area. He noted that there is not enough off-street parking for this restaurant, and the applicant does not desire to cause more congestion of on-street parking when the proposed plan could improve this matter. He questioned where the line is drawn that would allow for the needed parking in this area.

Mr. Cooper arrived during the presentation at 1:20 p.m.

Board Action:

On **MOTION** of **White**, the Board voted 4-0-0 (White, Dunham, Turnbo, "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **RECONSIDER** Case No. 19056 with re-advertising of the case, at the meeting on May 22, 2001.

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Case No. 19057

Action Requested:

Variance of required 30' of frontage on a public street or dedicated right-of-way to permit 0' frontage. SECTION 206. STREET FRONTAGE REQUIRED – Use Unit 6, located 5824 E. 111th St.

Presentation:

The applicant, **Richard E. Garmaker**, 5824 E. 111th St., stated his request for relief to permit 0' frontage for his property. He informed the Board the access road to his property from 111th St. is a private road that services only four residences, and exclusively one family uses the road on the west.

Comments and Questions:

Mr. Jackere explained to the applicant that his property must have legal access to Tract 2 from 111th St. and asked if he has any proof of an easement. Mr. Garmaker stated that he does not have a written easement. Mr. Cooper asked for a hardship. Mr. Garmaker did not have a hardship to offer concerning the land.

Interested Parties:

Robert Peters, 15 E. 5th St., Ste. 3800, spoke for Barbara and Gene Taylor who live at 5706 E. 111th St. He stated they object to the variance because the restrictive covenants prohibit a lot-split and or a second owner. He pointed out that their driveway is a private drive. They did not believe there is a hardship.

Comments and Questions:

Ms. Turnbo commented that the Board could not support the restrictive covenants, but if their driveway is not a public road, then the applicant could not use it for access.

Applicant's Rebuttal:

Mr. Garmaker noted that no homeowners in the neighborhood association are present to oppose.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absences") to **DENY** a **Variance** of required 30' of frontage on a public street or dedicated right-of-way to permit 0' frontage, finding a lack of hardship.

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Case No. 19058

Action Requested:

Variance of maximum size of detached accessory building of 750 sq. ft. to 816 sq. ft. SECTION 402.B.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS,

Accessory Use Conditions – Use Unit 6; and a Variance of maximum coverage of 20% of required rear yard to 34%. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards, located 1824 E. 17th St.

Presentation:

John Stowe, 1824 E. 17th St., stated he and his neighbor share a driveway. He has an old garage that has termites and needs to be demolished. They desire to build a three-car garage to share with the neighbor. The streets are crowded with parked cars.

Comments and Questions:

Mr. Dunham noted the staff comments suggest that if the new structure were shortened by 2' 9" that there would be no need for the variances. He asked what unusual circumstances would exist that would cause unnecessary hardships if the variances were not granted. Mr. Stowe responded that their house is quite small and they need the extra storage space. He mentioned that they would be 10' from the easement, while other such structures in the neighborhood are built on easements. Mr. White asked if the driveway would be changed. He replied that they would probably re-pour the drive but it would not be any wider, and more driveway would be needed up to the new garage.

Interested Parties:

Rosalyn Stowe, 1824 E. 17th St., explained that because the lot is narrow and the topography of the driveway is uphill, a certain radius is required to turn in. It was suggested to them to widen the driveway at the top of the hill to allow space to get vehicles in and out. They could not widen the lower portion of the drive because the house stands too close. It would require major excavation and change the historical significance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** a **Variance** of maximum size of detached accessory building of 750 sq. ft. to 816 sq. ft.; and **APPROVE** a **Variance** of maximum coverage of 20% of required rear yard be adjusted to permit an accessory building or garage of up to 750 square feet, with building 10' from rear property line, finding the hardship to be the topography change, and there are larger garages in the area, and they are substandard lots, on the following described property:

Lot 14, Block 2, Weaver Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19060

Action Requested:

Special Exception to allow two manufactured home dwellings in an RS-3-zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS -- Use Unit 9; a Special Exception to allow two manufactured home dwellings for more than one year. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; and a Variance to permit two manufactured home dwellings per lot of record. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD, located 2702 E. 49th St. N.

Presentation:

Harold Parker, 10220 E. 21st Pl., stated that he bought two and one-half acres in 1998 and understood that two manufactured homes were allowed there. Later he found that only one mobile home is allowed. He described the land as having a swale and drainage ditch through the center of it, and two corners the northeast and southwest are high ground. The manufactured homes are located on these high places.

Comments and Questions:

Mr. Cooper asked what the hardship is for two dwellings. Mr. Parker replied because they were both on the property legally at one time. He was unaware that the one was allowed with a time limitation.

Interested Parties:

Larry Elder, 4823 N. Birmingham Pl., stated he lives on the south side of the subject property. He submitted a petition (Exhibit B- 8) from Robinwood Addition with 74 signatures in opposition of this application. The reasons for objection are that it is a designated floodplain, improper maintenance of property and horses, no sewer service and a question regarding utilities. He submitted photographs (Exhibit B-7), a 1992 City of Tulsa Regulatory Flood Plain Map (Exhibit B-2) and a map marked to show the floodplain (Exhibit B-3). He informed the Board that the home on the east was vacant for three years. He requested that the application be denied. If it is approved, he requested that the following conditions be imposed: to close off N. Birmingham and use the legal address and entry to the property, to which the City installed a culvert; and that the driveway be paved according to the Zoning Code.

Comments and Questions:

Mr. White asked for the main objection, to which he replied they object to any manufactured homes.

William Guy, 2611 E. 96th St. N., submitted photographs (Exhibit B-1) of the flooded property. He talked with the applicant about cleaning up the property and he has refused to clean out ditches or care for the horses. He stated his own house had never been flooded until April. He informed the Board that one of the

manufactured homes has no gas or sewer. He asked that the application be denied.

Comments and Questions:

Mr. White asked if there is a mobile home on the west of the subject property. He replied that it is a mobile home.

Interested Parties:

Deborah Dickens-Holmes, 2414 E. 47th Pl. N., stated she was a detective with the Tulsa Police Department. She stated that she lives in the neighborhood and when she was approached about the mobile homes being moved into the neighborhood, she opposed it. She indicated that they do not look good and decrease the property value. From a professional standpoint, she believes problems like methamphetamine labs have a higher percentage rate of occurrence in mobile homes than stickbuilt homes.

W.C. Maloy, 2708 E. 49th St. N., stated he owns the property on the east and south of the subject property. The home that was approved around 1979 was repossessed and the current one was moved in without a permit. His other complaints were the same as above.

Candy Parnell, a City of Tulsa Neighborhood Inspector, stated that there are two things she found unusual about the property. She stated that the older home to the east is dilapidated and not a safe structure to use as a home. She also noted that the homes are used as rental property, not the owner's residence.

Applicant's Rebuttal:

Mr. Parker stated that the house was repaired and someone is living in it. He added that it is on well-water, and has electric service; gas is not hooked up, but the meter is there if needed, and it has a septic tank. He stated that the home on the northeast corner was grandfathered into the City, and the other home was placed there with a five-year time limit, but he was unaware of the limitation.

Comments and Questions:

Ms. Turnbo noted that in 1984 the one home was permitted with a one-year time limit. Mr. Dunham expressed concern regarding the floodplain.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** a **Special Exception** to allow two manufactured home dwellings in an RS-3-zoned district; a **Special Exception** to allow two manufactured home dwellings for more than one year; and a **Variance** to permit two manufactured home dwellings per lot of record, finding a lack of hardship, and 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.

Case No. 19063

Action Requested:

Minor Special Exception to review a site plan for additional parking for church purposes on Lot 3, located 6110 E. 20th St.

Presentation:

John Crowdis, stated he is the President of Arc-Tech, Inc., for South Lakewood Baptist Church. He stated they are willing to build per plan.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Minor Special Exception** to review site plan for additional parking for church purposes on Lot 3, per plan submitted, on the following described property:

Lots 2, 3, 5, and 6, Block 2, Sheridan Ridge, City of Tulsa, Tulsa County, State of Oklahoma, AND all that part of the SW/4 SE/4 SE/4 Section 10, T-19-N, R-13-E, of the IBM, more particularly described as follows, to-wit: Commencing at a point in the S boundary line of said SW/4 SE/4 SE/4, 180.00' from the SE/c thereof; thence N 0°26'22" E parallel to and 180.00' from the E boundary line of said SW/4 a distance of 265.20' to the POB; thence S 89°59'20" W a distance of 269.80'; thence N 0°26'22" E a distance of 105.00'; thence S 89°59'20" W a distance of 178.80' to a point in the E right-of-way line of S. Lakewood Ave.; thence N 0°25'30" E along said E right-of-way line a distance of 120.00' to a point in the S right-of-way line of E. 20th St. S.; thence N 89°59'20" E along said S right-of-way line a distance of 300.00' to the NW/c of Lot 2, Block 2, Sheridan Ridge, thence S 0°25'30" W along the W boundary line of Lot 2 of said Sheridan Ridge a distance of 120.00'; thence N 89°59'20" E along the S boundary line of Block 2 of said Sheridan Ridge a distance of 150.00'; thence S 0°26'22" W a distance of 105.00' to the POB.

Case No. 19064

Action Requested:

Special Exception to permit a manufactured home in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located 2605 East 49th Street North.

Presentation:

Patsy J. Powell, 1334 N. Boston Pl., stated her desire to place a mobile home on some land her daughter gave her, and she has a lot-split.

Comments and Questions:

Mr. Beach asked her if she had proof of an approved lot-split with her. It was her understanding that the survey gave her a lot-split. Mr. Beach had no record that a lot-split was ever approved for this property. She stated that her daughter had deeded her the property and filed of record at the courthouse. Mr. Dunham explained to her the need for an approved lot-split or approval for two dwellings on one lot of record.

Ms. Powell continued with her presentation. Photographs were shown on the overhead screen, but not submitted to the Board. She stated the home would be a new doublewide mobile home to be placed at the back of the property. She plans to place it on a permanent foundation and to put on a brick façade. Mr. Dunham pointed out that she would need relief for a mobile home on the property, for relief of a one-year time limit (permanent placement), and a lot-split or relief for two dwellings on one lot of record. Ms. Powell also mentioned a problem of standing water on the property. Mr. White suggested that they need a continuance to determine the needed relief for this property.

Interested Parties:

Mr. White informed the interested parties present that more information would be required to determine what relief might be needed, and if a lot-split would be permitted.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19064 to the meeting on June 12, 2001 to allow the applicant time to find out what relief she needs to request.

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Case No.19065

Action Requested:

Special Exception to allow a non-monopole, freestanding, self-supporting TV reception tower in an IL district. SECTION 1204.C.3.b.2. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS, located 6804 E. 44th St.

Presentation:

Brett Peters, Cox Communications, P.O. Box 470800, Tulsa, stated that the application is for multiple antennas on a tower for television and other off-air signals. A monopole is not appropriate for the needs and there would be no collocation.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a ***Special Exception*** to allow a non-monopole, free-standing, self-supporting TV reception tower in an IL 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, on the following described property:

Lot 51, Block 1, Katy Freeway Industrial Park, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No.19068

Action Requested:

Special Exception to permit Use Unit 15, Other Trades and Services, in the CS zoning district within proposed Lot 2. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS -- Use Unit; and a Special Exception to modify the screening requirement for the proposed Lot 2 to permit the screening fence to be located between 154' and 290' from the west property boundary of proposed Lot 2. SECTION 212.C. SCREENING WALL OR FENCE, Modification of the Screening Wall or Fence Requirement, located NW/c W. 71st St. & Union Ave.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represented Oklahoma Natural Gas Company.

Mr. White stepped out at 3:11 p.m.

Mr. Norman stated that the company owns about sixteen acres at the northwest corner of west 71st Street and S. Union Ave. He noted the uses of the surrounding properties. The company proposes to build a regional service center. He submitted photographs of a similar facility and an amended site plan (Exhibits E-1, E-2). The center would have 75 personnel and hours of operation from 7:30 a.m. to 4:30 p.m. They are seeking a Use Unit 15, to provide field service, maintain systems, some installation, parking of vehicles, and outside storage of supplies.

Mr. White returned at 3:13 p.m.

It would be closed on weekends except for emergencies. It would require detention for stormwater, leveling the hilltop, and built up on one side. He

described a 290' setback, screening fence, and added landscaping between the center and the golf course. They have been in communication with the Executive Board of the Southwest Tulsa Chamber of Commerce, the City of Tulsa Parks Department, and a developer of nearby property and worked out details to their satisfaction.

Interested Parties:

Bruce Bolze, KMO Development Group, 5550 S. Lewis, stated that after presenting all of their concerns to the applicant, they have all been handled and they are in favor of the application.

Tom Lester, 7350 S. 26th W. Ave., stated he represented 32 property owners in the general area. These residents were not in favor of the application. He stated that homeowners in the Angel Wing Development area have contacted him and object to the application. There is concern regarding additional congestion at the 71st Street two-lane bridge over I-75. There are no plans to widen the bridge for a number of years. They do not consider this to be an appropriate location for such an industrial facility, and that landscaping would not make it attractive enough for the area.

Leroy Smith, 6907 S. Union, stated he lives across the street on the east side of the subject property. He noticed that all of the landscaping was for the benefit of the golfers and not for the residential side on the east. He stated that when the church and school facility was put in next to his property, he could not get anyone to inspect and keep them in compliance to finish their project as submitted. He explained that the church construction caused drainage of raw sewage and flooding on his property. He wanted to know who would be responsible to see that this project would be accomplished per plan. He stated that he objects to the application.

Margaret Oglesby, 7335 S. 26th W. Ave., stated that she is opposed to the application due to traffic congestion. She informed the Board that this is a main access to the Oaks Country Club, Camp Lockridge, and several housing additions. She stated there is also a school nearby. The main concern is that the road is two-lane with stop signs. She also pointed out that these facilities end up looking junky, with a lot of pipes stored outside, and trucks. She asked for a continuance to give the Board time to check the traffic congestion around 5:30 p.m. to see the problem.

Ruth Lester, reminded the Board that this is a school bus route and children are walking to bus stops in this area.

Applicant's Rebuttal:

Mr. Norman mentioned something he left out earlier, that on the 71st Street side of the facility, there would be one compressed natural gas pump. He reminded the Board that an office building or commercial project would generate more traffic

than he described for the service center. He stated that the building would have an office appearance on the Union side, and there would be landscaping. He assured the Board that there would be no vehicle repair or sumps for oil changes. Mr. White asked if he would agree to a continuance. Mr. Norman did not think it would benefit.

Board Action:

On **MOTION** of **Cooper**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a ***Special Exception*** to permit Use Unit 15, Other Trades and Services, in the CS zoning district within proposed Lot 2; and a ***Special Exception*** to modify the screening requirement for the proposed Lot 2 to permit the screening fence to be located between 154' and 290' from the west property boundary of proposed Lot 2, per plan submitted May 8, 2001, with conditions to restrict outside storage of gas pipe no higher than 5', outdoor light standards shall not exceed 20' height, outdoor lighting and building mounted lights be hooded and directed downward and away from boundaries of the site, on the following described property:

A tract of land that is part of the SE/4 of Section 3, T-18-N, R-12-E, of the IBM, City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows: Beg. at the SE/c of said SE/4; thence N 0°26'22" E and along the Ely line of the SE/4 for a distance of 1,005.00' to a point; thence N 89°33'38" W for a distance of 605.19' to a point on the Ely line of Page Belcher Golf Course; thence S 8°20'00" W and along said Ely line for a distance of 70.41' to a point; thence S 15°39'03" W and continuing along the Ely line for a distance of 924.21' to a point; thence S 0°00'00" E for a distance of 50.00' to a point on the Sly line of the SE/4; thence S 90°00'00" E along said Sly line for a distance of 857.00' to the POB.

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Case No. 19069

Action Requested:

Special Exception to permit tune-up service and oil and lube service as a home occupation in an RS-3 district. SECTION 402.A. ACCESSORY USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 14; and a Variance of maximum 500 sq. ft. to 600 sq. ft. of floor area. SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS; REQUIREMENTS, located 1031 East Apache Street.

Presentation:

Fred Tate, 3404 W. Lansing, introduced his son, and stated he would present the case. Mr. White noted that the application was prompted by a zoning violation notice, and a notice to abate a nuisance.

Comments and Questions:

Mr. White asked if the applicant proposed to limit the area to 600 square feet for the shop in a 46' x 36' building in the rear. **Aaron Tate**, 12128 E. 25th St., replied that the measurements are the outside perimeter of the building. He added that it has office space, a restroom, and a storage room. Mr. Jackere asked who lives on the subject property and who has the home occupation. He replied that his mother lives there and he has the home occupation there. Mr. Beach asked if that was her permanent residence, to which Mr. Tate replied it is not. Mr. Jackere informed Mr. Tate that he could not operate his home occupation there if it is not his permanent residence.

Interested Parties:

Wendell Lead, 2558 N. Madison Ave., stated there is not sufficient parking space for a home occupation. He stated that the application does not fit the revitalization of the area. He indicated that there are EPA issues with this type of business. He asked the Board to deny this application.

Esther Ogans, 2202 N. Owasso, with the Lacy Park Task Force, submitted a petition (Exhibit F-1) from the Happy Hour Block Club. Her objection was that it was closely situated between two homes, and inappropriate location.

Candy Parnell, City of Tulsa Neighborhood Inspector, 111 S. Greenwood, stated that in fifteen years, the department has never found a Use Unit 17 auto-related activity that is acceptable as a home occupation. She commented that there have been a few that were approved by the Board of Adjustment, but every one of them were in violation of the conditions imposed within the first year of approval. The department would recommend denial of this application.

Applicant's Rebuttal:

Mr. Tate showed photographs that were not submitted and which described two paved driveways on each side of the house. He pointed out there is no junk stored outside.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** a ***Special Exception*** to permit tune-up service and oil and lube service as a home occupation in an RS-3 district; and a ***Variance*** of maximum 500 sq. ft. to 600 sq. ft. of floor area, 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. 19070

Action Requested:

Special Exception to allow outdoor sales of shoes in a CS-zoned district one weekend per month for two years. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located Southeast corner East 2nd Street & South Lewis.

Presentation:

Matthew McLearn, 11581 E. Kay Pl., Claremore, Oklahoma stated that he proposes to sell high-quality shoes at discounted prices in a tidy, professional 20' x 30' display on the parking lot of the subject property. He obtained permission from the property owner.

Comments and Questions:

Ms. Turnbo asked if he was going to displace any required parking. He replied that it would take up one parking space. He described the area at 3rd and Lewis.

Interested Parties:

Maria Barnes, 2252 E. 7th, stated she is President of the Kendall-Whittier Neighborhood Association. She added that she is also representing the Kendall-Whittier Ministry and Task Force and the Homeowners and Tenants Association. They asked that the application be denied.

Candy Parnell stated that the owner has never met the requirements for landscaping the property. She informed the Board that her department has issued several notices to the owner.

Mr. White noted letters (Exhibits G-1 through G-5) from the Kendall-Whittier Homeowner and Tenants Association, Tulsa Development Authority, regional planner for Tulsa Metropolitan Planning Commission, Kendall-Whittier Ministry, Peoples State Bank, with the general concern of street corner vendor concepts, and that it would degrade the appearance of the improvements that have been made along Lewis.

Applicant's Rebuttal:

Mr. McLearn stated that his display would improve the looks of that parking lot for the weekend that he is there. He did not think that one parking space would affect the parking needs.

Board Action:

On **MOTION of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** a **Special Exception** to allow outdoor sales of shoes in a CS-zoned district one weekend per month for two years, 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. 19072

Action Requested:

Variance of 75' setback requirement from an R district down to 40'. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS -- Use Unit 25; and a Special Exception to waive the screening requirement from an R district. SECTION 1225.C. USE UNIT 25. LIGHT MANUFACTURING AND INDUSTRY, Use Conditions, located 4616 N. Mingo Rd.

Presentation:

Paul Brauer, 4616 N. Mingo, stated the subject property is a place of business. The airport authority surrounds it. There are no residential structures on the property.

Comments and Questions:

Mr. Dunham stated that the Board has looked at the case, and the staff comments are favorable.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of 75' setback requirement from an R district down to 40'; and a **Special Exception** to waive the screening requirement from an R district, finding the adjoining R zoned property will probably never be developed into an R district, on the following described property:

E 50' W 100' Lot 1 and all Lot 2 less S 30' E 50' W 100' Lot 1 and less part Lot 2 beg. SE/c, thence W 10' N 38.6' NE 51' S 88.6' to POB, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19073

Action Requested:

Appeal of neighborhood inspector's determination that a commercial vehicle is being stored on the residential property and all other determinations made by the inspector. OR in the alternative: Variance to permit parking of the vehicle on the premises. SECTION 404.B.9. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; and a Special Exception to permit a home occupation (tool sales delivery route). SECTION 402.A. ACCESSORY USES PERMITTED IN RESIDENTIAL DISTRICTS -- Use Unit Undetermined, located 1447 South 121st East Avenue.

Presentation:

Gerald Lovoi, an attorney for Steven Brown, 1447 S. 131st E. Ave., stated the subject property is zoned RS-3. He stated that his client runs a route with automotive tools in the Tulsa area. The inventory is maintained in the truck and not in the residence and less than 50 square feet of the residence is used for bookkeeping. He described the truck as a panel truck and is no different from what would ordinarily be found in a residential setting, similar in size to a motor home. He added that it has an insignia similar to what might be used by a sports enthusiast and the lettering was two feet high. He asserts that the business could be considered a home occupation. There is minimal business activity at the home. Photographs were submitted (Exhibit H-1)

Comments and Questions:

Mr. Jackere asked for the hardship for the variance. Mr. Lovoi responded that the hardship would be that he has engaged in this business for twenty-one years and it would be a major financial adversity. Mr. Lovoi named several of the neighbors, present at the meeting, who are in favor of this application. Letters of support were submitted (Exhibit H-3 – H-5)

Mr. Cooper asked the applicant the questions raised in the staff comments as follows: a) If any sales are conducted on the premises. No sales are conducted on the premises. b) If customers ever enter the premises for the purpose of conducting business, rarely would a customer come to the premises. c) If inventory is stored on the premises other than on the truck. All inventory is stored on the truck; no building or room is used for storage. and d) Besides parking the truck are there any other business activities on the property. Just bookkeeping is done on the property. Mr. Cooper also asked what generated the original complaint. Mr. Lovoi replied that originally inoperative automobiles were parked on the grass. The property owner explained that his children were visiting from out of state over the holidays and parked there temporarily. The vehicles were removed and the vehicles were not related to the business. He stated that the truck would be parked on the pad he poured in the back yard and not on the street.

Ms. Turnbo instructed the applicant that even if the Board permitted the truck as a home occupation, the signage on the truck would still exceed the size allowed in the Code. Mr. Beach added that two square feet display area is allowed.

A. K. Wilson, Inspector with Neighborhood Inspections, submitted photographs (Exhibit H-2). He stated he received a complaint from one of the neighbors, primarily regarding the vehicles parked in the yard. When he investigated, the tool truck was parked in the street.

Mr. Cooper asked the applicant why this case should be regarded any differently from a Frito-Lay or tractor-trailer truck parked in a neighborhood. The applicant

responded that a Special Exception is available for hardware stores in Title 42, Section 1214 and Section 404b. He believes this case meets all of the requirements.

Mr. Dunham left the meeting at 4:39.

Mr. White commented that the vehicle is not normally found in a neighborhood. He noted that no business is conducted on the premises, and he could not see the business as a home occupation. He also noted that the fence is over the height allowed by the Code.

Interested Parties:

There were several neighbors present in favor of the application, but they did not wish to speak.

The Board discussed the parking of the truck on the property, considering the screening fence, and its height. They considered the appearance of the truck in comparison to other vehicles usually seen in a residential neighborhood, the paint job, the frequency of the use of the truck, and the issue of commercial versus recreational. They also discussed previous cases of a similar nature for reference regarding issues that would determine harmony with the spirit and intent of the Code, possible injury to the neighborhood or other detriment to the public welfare.

Board Action:

On **MOTION** of **Cooper**, the Board voted 3-0-0 (White, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Dunham, Perkins "absent") to **Partially Uphold** the decision of the Neighborhood Inspector's determination to remove vehicles from the yard, that the truck may be parked on the premises, with conditions that painting of flames be removed from the truck, the truck be stored behind the 6' screening fence, the signs on the truck cannot exceed two square feet, the truck may be a solid color, with single stripe on side, as customarily found on vehicles of this nature; and to **DENY** a ***Variance*** to permit parking of the vehicle on the premises; and a ***Special Exception*** to permit a home occupation (tool sales delivery route), on the following described property:

Lot 11, Block 2, East Port Addition, City of Tulsa, Tulsa County, Oklahoma.

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There being no further business, the meeting was adjourned at 5:27 p.m.

Date approved: 6/12/01


Vice Chair