

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 821
Tuesday, June 26, 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
White, Chair
Perkins

Beach
Butler

Jackere, Legal
Parnell, Cartner, Cox,
Zoning Officials

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Thursday, June 21, 2001, at 2:26 p.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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Case No. 19090

Action Requested:

Mr. Beach stated this case needs to be continued to the hearing on July 24, 2001 because the applicant requested additional relief.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19090 to the meeting on July 24, 2001.

MINUTES:

On **MOTION** of Turnbo, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of April 10, 2001 (No.816) as amended.

UNFINISHED BUSINESS

Case No. 18645

Action Requested:

Approval of a site plan as a condition imposed February 8, 2000 in approval of a Special Exception for a church in an AG district. SECTION 301. PRINCIPAL USES

PERMITTED IN THE AGRICULTURE DISTRICT – Use Unit 5, located N side of E. 11th St. between 129th E. Ave. & 145th E. Ave.

Presentation:

Jerone Roland, 14017 E. 11th St., Applicant did not have a site plan when the case was previously approved. The site plan (Exhibit) was submitted.

Interested Parties:

Deloris Wood, 14101 E. 11th, stated she was opposed to the application. She was concerned about where the sewer connection would be. She had complaints of workmen trespassing on her property, large equipment use at late night hours.

Applicant's Rebuttal:

Mr. Roland stated they only want to provide ministry and he was not aware of any trespassing.

Comments and Questions:

Ms. Perkins asked what hours they plan to do the work. Mr. Roland explained that the night before they hauled in gravel and it was the only time they have done any work late and do not plan to work at night.

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 site plan as a condition imposed February 8, 2000 in approval of a Special Exception for a church in an AG district, on the following described property:

The E/2 of SE of SW of SE, Section 4, T-19-N, R-14-E, of the IBM, City of Tulsa, Tulsa County, Oklahoma.

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Case No. 16611

Action Requested:

Clarification of minutes of 3/22/94 to determine impact of shared parking on neighbor and to make shared parking arrangement permanent.

Presentation:

T. Michael Smith, 3415 S. Peoria, came to present case. The Board granted a variance of required parking spaces in 1994 providing for shared parking spaces. The case never came back before the Board for determination of impact. Notice was not sent to the neighborhood. Mr. Dunham stated that they needed to hear from the neighborhood before they could decide on this case. Mr. Smith stated that that there has not been a problem with the shared parking for Sharkey's Billiards.

a.m. He stated the eleven-foot wide alley was inadequate for inebriated drivers. He reminded the Board that the owner has not maintained the office. He indicated the use was too intense for the location. Mr. Walter referred to a letter (Exhibit A-4) that was sent to the Board by the Tulsa Preservation Commission that recommends denial of the application as an inappropriate use and endangerment to the neighborhood.

Mark Hardy, 1415 S. Rockford, stated as a homeowner he did not want bar patrons using his residential street late at night. He suggested that the hours of operation be changed to close at 9:00 p.m. and that community leaders find ways to balance the development and existing neighborhoods in the area.

Bridgett Silver-Neal, 1427 S. Rockford, stated that she did not hear a hardship given for the variance. Ms. Turnbo informed Ms. Silver-Neal that the relief for a parking lot in this case is a special exception and does not require a hardship. She objected to the parking lot stating it would isolate existing residences. She was concerned that even though Mr. Rehorn may maintain the property, the next lessee may not.

Applicant's Rebuttal:

Mr. Johnsen referred to the Cherry Street study in 1986, the adopted policy of the council and community. He read a portion suggesting encouragement of low intensity office parking or residential uses, abutting existing commercial zoning to establish a transitional buffer between existing commercial and single-family neighborhoods. It also called for encouraging the identification and zoning of additional off-street parking on either side of 15th Street to accommodate existing and commercial needs. The restaurant will have to stay within the code definitions to keep the non-conforming use. These ordinances were carefully written to protect the neighborhoods. Mr. Johnsen stated that the objection in the letter from the Historic Preservation Commission was not well founded. He responded regarding the argument of whether it would be a restaurant versus a bar. They will have a full menu to 11:00 p.m. and a reduced menu until close.

Board discussion ensued.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-1-0 (Dunham, Turnbo, Perkins, Cooper "aye"; White "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a parking lot in an RM-2 district; and a **Variance** of parking setbacks and screening fence requirements, per plan, except fence moved back from along Rockford to allow landscape in front of the fence and the fence along Rockford is to be 4' high, on the following described property:

Lots 8, 9, 13 - 15, Block 6, Bellview Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19074

Action Requested:

Variance of lot area from 9,000 sq. ft. to 8,396 sq. ft. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit 6; and a Variance of land area per dwelling unit from 10,875 sq. ft. to 10,271 sq. ft. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2420 S. Owasso Pl.

Presentation:

Pat Fox, 320 S. Boston, Ste. 1710, stated they propose to split Lot 8 of Sunset Park III into two 75' lots. The lot on the southeast is slightly short of the required land area and lot area for RS-2 zoning. He pointed out that other lots have been split in this neighborhood and lots are of similar size and odd configurations. He plans to develop the properties with two residences, a single driveway on the common lot line and place garages at the rear of the property.

Interested Parties:

Larry David, 2131 E. 17th Pl., stated he is a potential owner/occupant of this property. He was in favor of the application. He submitted a letter (Exhibit B-2) from a neighbor, Chris Bumgardner, a resident on lot two, in support of the application.

Frank Clingan, 2404 S. Owasso Pl., stated he lives immediately adjacent to the subject property and indicated he was not in favor of the case. He stated that the neighbors on Lot 1, Block 1 were not in favor of the application.

Deborah Grisso, 1215 E. 24th Pl., stated the subject property gives a skyline view of her backyard and limits their privacy. She indicated that no hardship has been given. She stated that a lot-split would cause the neighborhood to lose continuity.

Paul Gilling, 1231 E. 24th Pl., stated his concern that the larger lots are being split and smaller homes are being built. He suggested that it would be better for the neighborhood if the existing house was enlarged or replaced with one larger home.

Sally Davies, 2502 Woodward Boulevard, stated if the lot were split it would be the two smallest lots on the street. She stated that the last lot split was in 1988 and there is no real history of lot-splits.

Cathy Gilling, 1231 E. 24th Pl., reminded the Board of previous staff comments on Case No. 19074 that a lot split would result in two lots smaller than those in the immediate area, causing an increased density that is closer to RS-3 standards.

permitted rear yard coverage of 20% to permit an addition to an existing garage, finding a lack of hardship.

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Case No. 19105

Action Requested:

Variance of required all-weather surface for vehicles being parked or stored. SECTION 222. MOTORIZED VEHICLES and SECTION 1402.D. & E. NONCONFORMING USE OF BUILDINGS, OR BUILDINGS AND LAND IN COMBINATION -- Use Unit 17 and 23; and a Appeal of neighborhood inspector's determination that non-conforming use of buildings or land has ceased for 36 consecutive months, located 17317 E. 14th St.

Presentation:

Carl Edmundson, 17317 E. 14th St., came to appeal the neighborhood inspector's determination that the non-conforming using of his buildings and land has ceased for 36 consecutive months and to obtain a variance of requirement for all-weather surface for vehicles being parked or stored. He stated that he has stored a car there since 1953. He also indicated that he was approved to repair and store cars as a non-conforming use.

Comments and Questions:

Mr. Jackere stated that no approval was given to store junk cars. Mr. White asked how many cars are stored or are parked there for repair at a time. Mr. Edmundson did not state a total of cars. Mr. Jackere asked where the repairs are done. Mr. Edmundson replied they work on the southwest corner. Mr. Jackere asked if they work inside the building. Mr. Edmundson responded that they do some work inside. He asked the applicant how many buildings they have. Mr. Edmundson replied four or five. Mr. Jackere asked what jobs were done in the building prior to four months ago. Mr. Edmundson replied that they stored auto parts and used a valve-grinding machine.

Dunham out at 4:10 p.m.

Mr. Cooper asked for a hardship. Mr. Edmundson replied that the land won't perc because the nearby water facility made the land boggy.

Dunham returned at 4:13 p.m.

Mr. Jackere explained the Code regarding abandoning the repair business in one or all buildings for a period of 36 consecutive months.

Interested Parties:

Candy Parnell, Neighborhood Inspector, submitted photographs (Exhibit E-4) of the subject property to the Board. She informed the Board that the City of Tulsa

removed 49 junk abandoned vehicles and salvage from the property. She stated that there was so much vegetation in front of the building that vehicles could not be moved in and out. Ms. Parnell noted that many of the same cars had been there for several years. She pointed out that the water had been turned off there since October 1999 and remains disconnected today. The door to the building mentioned earlier would not stay open without holding it up.

Applicant's Rebuttal:

Mr. Edmundson made comments regarding the annexation of his property into the Tulsa city limits.

Comments and Questions:

Ms. Perkins suggested a continuance to allow the applicant time to submit documentation regarding junk storage. Mr. Jackere suggested the applicant needed an attorney and documents to present his case. Ms. Turnbo asked the applicant to provide proof in writing of when and where the city limits were extended.

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 **CONTINUANCE** to the meeting on July 24, 2001.

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Case No. 19106

Action Requested:

Special Exception to permit home occupation (office). SECTION 402.B.6. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions and SECTION 404.B. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS and SECTION 1608. SPECIAL EXCEPTION -- Use Unit 6 and 11, Appeal from Zoning Violation Notice issued by Neighborhood Inspections Office on May 4, 2001, located 2218 E. 54th St.

Presentation:

Stephen Schuller, 500 Oneok Plaza, 100 W. 5th St., stated that his clients asked about permission to operate a business from their home. They were misinformed, and subsequently received a zoning violation notice. He read the home occupation requirements and indicated this application meets the requirements.

Roland Miller, 2218 E. 54th St., a resident of the home stated that one time per month a Penske truck comes to the house. He stated that no equipment is brought to the house.

A packet of information including zoning violation notices (Exhibit F-1) was submitted to the Board.

Perkins returned at 5:22 p.m.

Dunham out at 5:22 p.m.

Presentation:

Johnny Hollowell, 4848 N. 145th E. Ave., described the property and layout. He stated there are no environmental issues, as the paint balls are gelatin and they are propelled by carbon dioxide. He added that the property is screened. A packet of applicant exhibits was submitted (Exhibit G-1).

Dunham returned at 5:24 p.m.

Interested Parties:

Tony Foster, P.O. Box 309, Claremore, pointed out that State Highway 266 would become a major truck route when the connection opens to I-44. He added that a limestone quarry to the north of the property would increase traffic. He concluded that these increases in traffic and the 0 parking spaces would be a dangerous situation.

John Morrison, 7515 S. Urbana, stated he farms 2,000 acres in the area of the subject property. He has dealt with a considerable amount of vandalism. He already also has a problem with hunters and others parking in front of his gate.

Sharon Casey, Owasso, expressed concern regarding the truck traffic on the Port Road. The sun impairs drivers' vision on this east/west road. The combination of these and young drivers to ball fields and paintball fields would be more dangerous.

Orval Flannery, P.O. Box 456, Catoosa, stated concern due to the reasons given above. He objects to the location only, not the business.

Hank Harbaugh, 2843 E. 39th, pointed out that the parking and traffic problems involve Rogers County also. The applicant was not present at the Rogers County BOA hearing and it has been continued to the next meeting.

Comments and Questions:

Mr. Jackere considered the information and suggested to this Board that the Rogers County BOA action would have a bearing on their decision.

Board Action:

On **MOTION** of Dunham, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19107 to the meeting on July 24, 2001.

Case No. 19108

Action Requested:

Variance to allow two signs per street frontage. SECTION 602.B.4.b. & c. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions -- Use Unit 21 (11); and a Variance of allowable display surface area allowed in an OM zoned district from 62.2 sq. ft. to 104 sq. ft. total for two signs. SECTION 602.B.4.b. & c. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions, located 2121 E. 15th St.

Presentation:

Neal Krueger, 2121 E. 15th St., stated he was represented AAA of Oklahoma. He stated that they have changed their name and propose to change two existing signs on the subject property. He submitted a site plan and photographs (Exhibits H-1, H-2a and b).

Interested Parties:

Maria Barnes, 1319 s. Terrace Dr., expressed understanding that signs on the building have backlighting. She had no objections.

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 **Variance** to allow two signs per street frontage; and a **Variance** of allowable display surface area allowed in an OM zoned district from 62.2 sq. ft. to 104 sq. ft. total for two signs, per plan, finding it would 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:

Lots 4 and 5, Block 6, Subdivision of a part of Block 5; AND all that part of Lot 26, in Block 5, particularly described as follows: beg. at a point on the S line of said Lot 26, which point is 75' E of the SW/c of said Lot 26; thence E along the S line of said lot for a distance of 45' to a point of curve; thence around a curve to the left radius of which is 150' and along the Sly line of said Lot 26, for a distance of 40' to a point; thence in a NWly direction on a straight line to the N line of said lot at a point 125' W of the NE/c of said lot; thence W on the N line of said Lot 26 for a distance of 70' to a point which is 75' E of the NW/c of said lot; thence S a distance of 151.1' to the S line of said lot, the POB; AND W 75' of Lot 26, Block 5, all in Terrace Drive Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19109

Action Requested:

Appeal from the decision of the Neighborhood Inspector that the use consists of wrecker service and vehicle storage, located 12135 E. 11th St.

Presentation:

John Patton, 406 S. Boulder, Ste. 10, stated he represented the applicant, Carter Hargrave. He stated that martial arts are an exemption in the Code. He instructs no more than eight students at a time, three days per week. The students all park in his driveway.

Comments and Questions:

Ms. Turnbo asked if any of the students were children and were dropped off and picked up there.

Carter Hargrave, 1037 E. 34th St., replied that some students are dropped off and picked up at his home. Ms. Turnbo asked how many are dropped off and what days. He replied four students on Tuesdays, Thursdays and on Sundays. He also teaches calligraphy with karate classes. His wife will teach sculpting when he quits teaching. Mr. White asked who resides there and how many vehicles they have. He replied that he and his wife live there and they have four vehicles.

Interested Parties:

Jan Zoledek, 1035 E. 34th St., expressed objections to traffic and noise from the subject property. She made a written complaint to Mr. Ballentine. She stated that the students walk across her property going to and from his classes. She complained that they park on the street and some of the classes are held in the back yard.

Reagis O'Donnell, 1021 E. 34th St, stated concern for the longevity of the special exception, since it would stay with the land.

Nancy Apgar, 3914 S. Norfolk, stated she is the President of the Brookside Neighborhood Association. She expressed concerns for the traffic and on-street parking. She suggested that this type of business should be located in a commercial district.

Applicant's Rebuttal:

Mr. Patton indicated that many of the pedestrians who cross the neighbors' yards are not there for the classes. He stated the applicants are the only teachers at the residence. He indicated there are a lot of activities in the neighborhood bringing traffic and pedestrians.

Board discussion ensued.

Board Action:

On **MOTION** of **Perkins**, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **DENY** a **Special Exception** to permit a home occupation (teaching martial arts and teaching of painting and sculpting) in an RS-3 district, finding that it would not be in harmony

Case No. 19112

Action Requested:

Review and approval of amended site plan, previously approved under BOA 18799, located E of SW/c Latimer & 129th E. Ave.

Presentation:

Wallace Wozencraft presented the amended site plan.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Perkins**, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **APPROVE** an amended site plan, previously approved under BOA 18799, on the following described property:

Trinity Park, A Resubdivision in City of Tulsa, Tulsa County, Oklahoma.

Case No. 19113

Action Requested:

Variance of required setback from an R district from 75' to 36' to permit expansion of existing building. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS -- Use Unit 15, located 7240 E. 46th St.

Presentation:

Dana Hutson, 1909 N. Yellowwood, stated the request with the hardship being a 15' severe slope on the property.

Interested Parties:

There were no interested parties present who wished to speak.

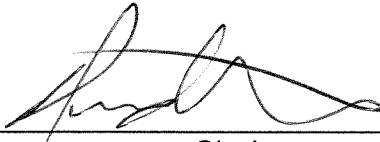
Board Action:

On **MOTION** of **Perkins**, the Board voted 3-0-0 (White, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Dunham, Cooper "absent") to **APPROVE** a **Variance** of required setback from an R district from 75' to 36' to permit expansion of existing building, per plan, finding the hardship to be the topography, on the following described property:

Lot 1, Block 2, Industrial Equipment Center 3rd Addition, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 7:25 p.m.

Date approved: August 28, 2009

A handwritten signature in black ink, appearing to be "Paul", written over a horizontal line.

Chair