

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 841
Tuesday, May 14, 2002, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the Office of INCOG, 201 W. 5th St., Suite 600, on Friday, May 10, 2002, at 4:15 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.

Mr. Jim Beach read the rules and procedures for the Board of Adjustment Public Hearing.

Request for Continuance

Case No. 19349

Action Requested:

Special Exception to permit auto sales in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Variance of requirement that there be no open air storage or display of merchandise within 300' of adjoining R district. SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions, located NW/c 106th E. Pl. & E. Admiral Pl.

Presentation:

Mr. Beach informed the Board that Randall G. Gehring requested a continuance to the meeting on May 28, 2002 allowing time to meet with the neighborhood first.

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. 19349 to the meeting on May 28, 2002, regarding the following described property:

That part of Lot 5, in Spring Grove Subdivision of Lot 2, Section 6, T-19-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Beg. at the SE/c of the highway property line of Lot 5; thence W along the highway property line 165' to a point; thence N 125' parallel to the E line of Lot 5 to a point; thence E 165' parallel to the S line of the highway property line to a point on the E line of Lot 5; thence S 125' along the E line of Lot 5 to the POB.

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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 April 23, 2002 (No. 840).

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UNFINISHED BUSINESS

Case No. 19328

Action Requested:

Special Exception to allow an emergency/protective shelter and learning center for children and adults needing temporary assistance. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2, located 2605 E. 29th Pl. N.

Presentation:

Lester Shaw, 2238 N. Yorktown Ave., stated that they have provided a site plan (Exhibit A-2), as the Board requested at the last hearing. He informed the Board that they have trimmed down the list of services also. He added that they have been talking with the neighbors about the center. He indicated that it would be an improvement to the neighborhood property values. Mr. Shaw stated the days and hours of operation would be Monday through Friday, 9:00 a.m. to 6:00 p.m. He indicated there would be about three staff people, adult visitors during the day and approximately ten children after school. They also plan to have a summer program for children. A petition in support of the application (Exhibit A-1) was submitted. Photographs of homes in the neighborhood were submitted (Exhibit A-5).

Mr. Cooper arrived at 1:13 p.m.

Comments and Questions:

Ms. Turnbo reminded him this would not be a facility for overnight emergency shelter. Ms. Turnbo questioned Mr. Shaw about transportation for children, and field trips. Mr. Shaw stated the center is for this neighborhood and if they did a field trip they could provide transportation and keep the number of cars to a minimum. Mr. White stated he had a petition in opposition (Exhibit A-3) from residents at addresses within the neighborhood or immediate area.

Interested Parties:

Victoria Sanders, 2628 E. 30th St. N., stated she also submitted a petition of opposition (Exhibit A-3) from neighbors in the neighborhood. She stated there are only 80 occupied homes in the area. Ms. Sanders listed concerns that the building site was inadequate; streets were inadequate; no through access; parking inadequate; and building plans have not been shared with the neighbors prior to this meeting. She added that the plans are good but not appropriate for the neighborhood.

Louis Smith, 1812 N. Boston Pl., stated the streets are too narrow and no shoulders. He stated there are not enough children in the neighborhood. He felt that the services to be offered were not appropriate for the people who live in the neighborhood.

Siomata Pratt, 2540 E. 30th St. N., stated that most of the neighbors are elderly. She stated the only children who live on her block are graduating high school. She indicated the majority of residents do not need the services. She did not think it was an appropriate site.

David Patrick, City Councilman, District 3, stated he spoke to Mr. Shaw. He stated that he understood it was to be a sideline venture to help improve neighborhoods. This project meets the goals of the Council to improve the neighborhoods. He stated if they can work out the details it would be an asset to the area.

Applicant's Rebuttal:

Mr. Shaw thanked the Board for the continuation and consideration of his application. He told the Board that he was concerned for the children playing in the streets with nothing much to do.

Ms. Turnbo listed concerns as to the interest in the neighborhood for learning computer skills; if lunch would be served; narrow streets; minimal parking available; and Mr. Shaw has changed the hours of operation several times. She noted the neighborhood is small and this center might cause too much traffic, the applicant has changed his statement regarding whether there would be field trips. She also mentioned it appeared the majority of people who signed petitions are in opposition. Mr. Shaw responded that many of the neighbors just wanted someone

for screening design pursuant to approval of sensory and children's garden granted April 23, 2002, on the following described property:

Beg. at the NW/c Lot 2, thence S 246.00' E 330.00' N 23.00' E 121.00' SE on curve 43.98' E 145.80' S 109.50' E 63.60' S 109.50' E 526.35' N 470.00' W 1218.36' to POB, Section 18, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 19350

Action Requested:

Special Exception to allow an accessory structure (garage) on an abutting residential lot under same ownership. SECTION 1608. SPECIAL EXCEPTION – Use Unit 6; a Variance to allow accessory buildings totaling 908.97 square feet; and a Variance of the maximum allowable floor area for detached accessory buildings from 500 square feet to 908.97. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions, located 4606 S. 29th W. Ave.

Presentation:

Lenny Richardson, 4606 S. 29th W. Ave., stated he spoke previously with INCOG and withdrew his request for the variances. He added that he never intended to keep the existing accessory buildings. He has already removed one and after he builds the garage, he plans to remove the second one. A site plan (Exhibit C-1) was provided.

Comments and Questions:

Mr. Beach noted that the garage would be on a separate lot and would need a tie-contract. He owns both lots.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow an accessory structure (garage) on an abutting residential lot under same ownership, per plan, on condition of a tie-agreement, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 24 and 25, Block 16, Town of Carbondale, City of Tulsa, Tulsa County, State of Oklahoma.

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 requirement that a mini-storage must have frontage and access to an arterial street, per plan, finding the hardship to be that the intent of the code is the affect it might have on a neighborhood and this project is totally within an industrial neighborhood, on the following described property:

Part of Lot 1, Block 1, said tract of land being described as follows, to-wit: Beg. at a point that is the most Sly corner of said Lot 1, said point also being the most Wly corner of Lot 2, in said Block 1; thence N 46°23'03" E for 299.02' to a point on the NEly line of Lot 1, said point being 286.29' SEly of the NWly corner of Lot 1; thence S 71°32'12" E along the NEly line of Lot 1 for 34.11' to a point that is the most Ely corner of Lot 1, said point also being the most Nly corner of said Lot 2; thence S 51°50'59" W, along the common boundary line between said Lots 1 and 2, for 316.43' to the POB of said tract of land; And Lot 2, Block 1, Industrial Equipment Center 2nd Addition.

Case No. 19353

Action Requested:

Variance of required 30' of frontage on a public street or dedicated right-of-way to 0'. SECTION 206. STREET FRONTAGE REQUIRED – Use Unit 6; and a Variance of lot width from 200' to 165' to permit a lot-split. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT, located 464 W. 73rd St.

Presentation:

Doyle Black, 464 W. 73rd St., stated that many of the lots in the area are the same size. He stated he is on a dead-end road with right-of-way through two properties. There are city utilities, water and a septic system. His house and a garage are the structures existing on the property.

Interested Parties:

Steve Fisher, 7222 S. Elwood, stated he and his parents own property on the east, north and south of the subject property. They granted easements on their abstracts, just for right-of-way to the property. It is for residential use only. In the last three or four years Mr. Black started a salvage yard and a dump on the property. He added that they made a complaint to Neighborhood Inspections. He stated that Mr. Black does auto mechanics in the three-car garage and has been selling cars on the property. He has counted ten to thirty cars going down the right-of-way to Mr. Black's property per day. It is a single-lane, gravel road. He complained that the family children couldn't ride bikes down the road for all the traffic. Mr. Fisher had his property re-appraised and the value went down \$15,000. The appraisers told him it was because of Mr. Black's property. Mr. Fisher stated

that stripped car bodies were discarded around the property. He added that dump trucks were dumping construction trash such as concrete and asphalt. He informed the Board that Mr. Fisher has no license to sell or repair cars. He stated that two weeks ago he started to work on cars again. Mr. Fisher submitted photographs (Exhibit F-2).

Comments and Questions:

Mr. Dunham pointed out that the illegal operations on the property do not have to do with the application before the Board. Mr. Fisher stated the road was not made for that much traffic, as it is a single-lane, gravel road.

Jim Foster, 7302 S. Elwood, stated he has tried to talk the applicant and his wife regarding the traffic and other issues. He stated he is opposed to a lot split on the subject property.

Candy Parnell, Neighborhood Inspections, submitted packets of information to the Board (Exhibit F-1). She stated that she inspected the subject property in November 2001. She confirmed the statements made by Mr. Fisher. She added that Mr. Black responded to the notices and cleaned up the property. Ms. Parnell informed the Board that if Mr. Black reopens the auto mechanic facility or anything that is in violation of the zoning code or the health, safety and nuisance code, she would not send any more notices, but write citations or issue warrants for his arrest.

Applicant's Rebuttal:

Mr. Black expressed surprise at his neighbors' statements. He stated that his abstract shows easements with the roadway. He informed the Board that he has ceased the auto repair business. His personal friend brought his car in for Mr. Black to help repair. There was no exchange of money. Mr. Black stated he had his property reappraised in February 2002, and it has almost doubled in value in the last eight years.

Comments and Questions:

Mr. Dunham noted the aerial photo suggests there are other structures on the property than the garage and house. Mr. Black replied there is a gazebo behind the house and a metal portable building. Mr. Beach informed the Board that the aerial photos are updated every two years. He stated that the photo is either two years old, or more likely was taken last January. Mr. Beach stated that the property is deficient for subdivision in several ways and the reason for the regulations is to provide for orderly development, frontage on public streets and continuation of public utilities.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of required 30' of frontage on a public street or dedicated right-of-way to 0'; and a

Variance of lot width from 200' to 165' to permit a lot-split, for lack of a hardship, on the following described property:

N/2, NW, SE, NE, Section 11, T-18-N, R-12-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19354

Action Requested:

Variance of the required parking from 24 to 10 for medical office. SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, Off-Street Parking and Loading Requirements – Use Unit 11, located 1727 S. Cheyenne.

Presentation:

Pamela Brewer, 3420 E. 67th St., stated she wants to move into a larger building. The attic and basement will not be used, which leaves about 4500 square feet of useable space; 500 square feet are porches and balconies. Ms. Brewer submitted a written lease for eight parking spaces (Exhibit G-1) and a letter of support from the parking lot owner (Exhibit G-2). She informed the Board she has 2 full-time and 5 part-time employees. She will have three working rooms, but they do not always have three clients at a time.

Comments and Questions:

Ms. Turnbo advised Ms. Brewer that if she lost her parking spaces she would have to close down the business.

Interested Parties:

There were no interested parties who wished to speak.

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 required parking from 24 to 10 for the Skin Medic aspect of medical care, on condition there be a minimum of eight parking spaces available for this owner located no further away than the southeast corner of 17th and Cheyenne in any direction, finding the hardship to be that this type of business does not require the normal amount of parking spaces, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

Lot 1 and 2, and N 5' Lot 3 Block 1, Amended Plat of Bowers Addition City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19355

Action Requested:

Special Exception to permit a Use Unit 12a, except sexually oriented business. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a, located 6202 S. Peoria.

Presentation:

Jeffrey Levinson, 35 E. 18th, stated he was representing the tenant, who attempted to renew his permit. The tenant was told at the zoning plan review that he needed a special exception because the business is located within 150' of residentially zoned land. The lease only states the address, not the legal. He stated this has caused a lot of confusion. He suggested the special exception be limited to the address or the site plan.

Interested Parties:

Lanny Endicott, 5611 S. St. Louis, stated he is President of the South Curry Neighborhood Association. He stated he met with the applicant, Mr. Levinson, neighborhood business and property owners to discuss the application. He added that the applicant agreed there would be no sexually oriented business; to secure the environment within and outside the bar during the hours of operation; and to improve the external appearance of the property. He informed the Board that up to now this business has not caused a problem for the neighborhood.

Comments and Questions:

Mr. Boulden asked if there was anything that separates the southern border of the bar from the rest of the property. Mr. Endicott replied there is not, just vacant land.

Interested Parties:

Helen Burnett, 11018 S. 85th E. Ave., stated she owns some duplexes within a block of the bar. She commented on improvements that have been made to the neighborhood. An apartment complex that had a lot of drug activity was demolished; the park was improved; trees were planted; the neighborhood addition was named; and streetlights were put up. They are trying to change the reputation of the neighborhood. She submitted a petition (Exhibit H-1). Ms. Turnbo asked if she had any specific complaints about this bar. Ms. Burnett replied that she did not. Ms. Turnbo asked if a screening fence would make a difference. Ms. Burnett did not think it was necessary.

Janelle Stelslan, 6636 S. Jamestown Pl., complained there is already high crime in the area. She stated she was opposed to the application. She expressed concern for the teenagers who walk through the area; the poor maintenance of the property and parking lot. She protested having a bar at this location now or in the future.

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 Use Unit 12a, except sexually oriented business, with condition that it be limited to the N 120' of the subject property, and no outside activities, seating or speakers, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Part of Lot 1, Block 1, Zandbergen Addition, Beg. at a point 363.05' S of the NE/c Lot 1, thence S 333.05' W 243.15'; N 303.94' to a point NEly on a curve to a point E to POB, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19356

Action Requested:

Special Exception to permit a children's nursery in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; Variance of Section 404.F. 2, 3, 4; Special Exception Uses in Residential Districts, Requirements, required lot size of 12,000 square feet to 7845 square feet, minimum frontage of 100' to 55.02', minimum building setback of 25' from abutting properties located within an R district. SECTION 404.F. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; and a Variance of Section 1205.C required parking spaces from 3 to 2. SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Off-Street Parking and Loading Requirements, located 3304 N. Hartford.

Mr. White announced he would abstain from this application and he stepped out of the room at 3:25 p.m.

Presentation:

Sonda Matlock, 3262 S. Fleetwood, Apt. 8A, stated they own the subject property. She stated the house has three bedrooms. They do not plan to use the back yard; and they fenced in the front yard for a play area. Someone from DHS is supposed to inspect the property after this meeting and determine how many children she can take in the day care. The hours and days of operation would be 7:00 a.m. to 5:00 p.m., Monday through Friday. She expects she would be approved for 10 to 15 children.

Mr. White returned at 3:27 p.m.

Comments and Questions:

Mr. Dunham asked about parking spaces for parents to deliver and pick up their children. She indicated the access would be from 33rd St. N. in front of the garage. There would be a loop drive.

Case No. 19357

Action Requested:

Variance of minimum frontage requirement in the CS district from 150' on an arterial street to 90' and 85' to permit a lot-split. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 11, located 8159 & 8165 E. 31st St. S.

Mr. Cooper state he would abstain from this case. He left the room at 3:45 p.m.

Presentation:

Louis Reynolds, 2727 E. 21st, submitted photographs (Exhibits J-2 and J-3) to the Board. He stated Briarwood Office Park was developed about thirty years ago. The buildings 8141 and 8149 were split per the Board of Adjustment action around 1984 with conditions for a mutual access easement. There is shared signage by all the businesses of the office project by agreement.

Comments and Questions:

Mr. Dunham asked if they are willing to limit it to office use in the future. Mr. Reynolds replied in the affirmative. Mr. White asked if there are any encroachments. Mr. Reynolds responded that no other relief is needed.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; Cooper "abstained"; no "absences") to **APPROVE** a **Variance** of minimum frontage requirement in the CS district from 150' on an arterial street to 90' and 85' to permit a lot-split, per plan, with conditions that the use of the property will remain office use, the access be limited to the existing access to 31st St., and a mutual access agreement between the two lots and limited to no more signage than exists presently, finding that the property next door with the exact circumstances was approved, and finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or Comprehensive Plan, on the following described property:

A tract of land that is the S 200' of the E/2 E/2 of Lot 4, Block 1, Groveland Addition, and the E 8' of the S 200' of the W/2 E/2 of Lot 4, Block 1, Groveland Addition, said tract being more particularly described as follows: Beg. at the SE/c of said Lot 4; thence S 89°22'00" W along the Sly line of Lot 4, for a distance of 175.79' to a point; thence N 0°34'12" W for a distance of 200.00' to a point; thence N 89°22'00" E and parallel with the Sly line of Lot 4, for a distance of 175.71' to a point on the Ely line of Lot 4; thence S 0°35'30" E along said Ely line,

for a distance of 200.00' to the POB, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19329

Action Requested:

Request for refund, per John Herbert with Wallace Engineering.

Presentation:

Mr. Beach announced that the application was withdrawn after minimal processing. Staff recommends a refund of \$225.00.

Interested Parties:

There were no interested parties who wished to speak.

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 refund of \$225.00, for Case No. 19239, regarding the following described property:

Tract A: A tract of land situated in Section 15, T-19-N, R-13-E, being more particularly described as follows: Beg. at a point 190' W and on the N line of the SE/4 NE/4, Section 15; thence Wly and along the N line of said SE/4 NE/4 and on the S right-of-way line of 23rd St. S. a distance of 150' to a point; thence Sly and parallel to the E line of said Section 15 a distance of 113.54' to a point, thence Ely a distance of 150.00' to a point, said point being 190.00' W and 112.55' S of the NE/c of said SE/4 NE/4 Section 15; thence Nly and parallel to the E line of said Section 15 a distance of 112.55' to the POB; AND Tract B: Grantor's 1/3 interest in a tract of land in the SE/4 NE/4 of Section 15, T-19-N, R-13-E, of the IBM, being more particularly described as follows, to-wit: Beg. 340.00' W of the NE/c SE/4 NE/4 of said Section; thence W 338.57'; thence S 115.78'; thence E 338.44'; thence N 113.54' to the POB, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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Discussion with the City Attorney on the Oklahoma Open Meeting Act, Title 25, Oklahoma Statutes, §§301 et. seq., as it relates to Board of Adjustment decisions.

Mr. Boulden stated that some residents in east Tulsa indicated there have been violations to the Open Meeting Act. Interested parties were concerned that the waiver of regulations was not listed as an item to be discussed when a plat was approved at the Tulsa Metropolitan Area Planning Commission. The waiver of the regulations was embodied in the action requested, so there was adequate notice to

the public. The Legal Department thought this was a good time to distribute copies of the Open Meeting Act to the Board and Planning Commission to refresh the members on the requirements. He commented that since their actions involve so many people it is important to assure compliance with this Act to alleviate any problems with property rights. He suggested that they review it together at the next training session.

There being no further business, the meeting was adjourned at 4:08 p.m.

Date approved: MAY 28, 2002



Chair