

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 850
Tuesday, September 24, 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 Thursday, September 19, 2002, at 11:05 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.

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

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 September 10, 2002 (No. 849).

UNFINISHED BUSINESS

Case No. 18537

Action Requested:

An extension of time for a period of three years from October 12, 2002 to commence construction of the residence pursuant to previous approval of two variances of the required front and rear yards in an RS-1 zoning district, according to the site plan approved by the Board, located SE/c of E. 30th St. & 30th St. & S. Victor.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represents Steve and Debbie Ganzkow. They came before the Board three years ago with plans for their personal residence at this location. He explained they are asking for an extension of time for construction of the specific plans approved previously by the Board. A copy of the previously approved site plan (Exhibit A-1) was submitted.

Interested Parties:

Larry Henry, 100 W. 5th St., Ste 2000, the neighborhood residents agree to the two-year extension to commence construction, based on the final site plan only, which was approved by the Board. He submitted photographs of the 'For Sale' sign on the property (Exhibit A-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 An extension of time for a period of two years from October 12, 2002 to commence construction of the residence pursuant to previous approval of two variances of the required front and rear yards in an RS-1 zoning district, according to the site plan approved by the Board, on the following described property:

Lot 1, Block 17, Forest Hills, City of Tulsa, Tulsa County, State of Oklahoma, less and except a part thereof described as beginning at a point on the SEly line thereof, 90.10' SEly of the NE/c thereof, thence SWly for 64.52' to the SE/c thereof, thence NWly along the SWly line thereof for 135.38' to the SW/c thereof, thence NEly on a curve to the left having a radius of 301.79' for 83.96', thence SEly and parallel to the SWly line of said Lot 1 for 130.12' to the POB.

Case No. 19436

Action Requested:

Variance of required front yard. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 3040 N. Kenosha Ave.

Presentation:

Lynn Smith, P.O. Box 2284, Tulsa, submitted a site plan and map (Exhibits B-1 and B-2). This case was continued to allow advertisement for added relief for the previously approved application.

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** of required front yard from 25' to 2' 6", per plan, 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:

Lots 1, 2, 3, 21, 22, 23 and 24, Block 10, Standard Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Mr. Cooper arrived at 1:12 p.m.

NEW APPLICATIONS

Case No. 19447

Action Requested:

Special Exception to permit a beauty shop in an OL district. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS – Use Unit 13, located 2112 E. 15th St.

Presentation:

Nancy Smart, 4525 S. Jamestown Ave., stated she is Mr. Sembritzky's wife and she is standing in for him during a family medical crisis. She stated the action requested. She informed the Board that the sign would not change except for the name of the business.

Comments and Questions:

Mr. Dunham confirmed with Mrs. Smart that they plan to meet the landscaping requirements. Mr. White confirmed that the proposed access would be only from 15th Street.

Interested Parties:

Todd Lang, 1529 S. Yorktown Pl., stated he is the President of the Gillette Historic District, which neighbors the subject property. He added that personally he is pro-business, but there is considerable concern that retail in the OL district would set a precedent. He expressed concern for increased traffic. They support light office, as they believe it would not cause excess traffic on 15th Street, but a beauty shop would tend to have continual ingress and egress. He submitted a petition (Exhibit C-1) to the Board.

Mr. White noted the Board received a letter (Exhibit C-2) from another interested party. He asked Mr. Lang how they felt it would affect traffic on Yorktown and Gillette, since access is from 15th Street. Mr. Lang responded they felt anything on the borders of their area would increase traffic and possibly use their residential streets as through streets. They felt that if special exceptions start being approved it would set a precedent. They believe the original zoning was accurate and the streets are unique, and they want them preserved in historical areas. Mr. Lang informed the Board that the beauty shop has already moved in and is operating.

Susan Douze, 1521 S. Yorktown Pl., expressed concern for erosion of 15th Street between Utica and Lewis by special exceptions in the neighborhood. She stated Yorktown Ave. is used as a through street. She questioned what the next business

would be. Mr. White asked what was the previous business located there. Mrs. Smart replied it was some type of computer business.

Herb Newman, 1521 S. Yorktown Ave., stated he has lived there for 21 years and Yorktown has changed into a busy street. The appearance of the structure on the subject property has changed numerous times over the years. He is opposed to the special exception. He does not want to see any deterioration of the neighborhood. He reminded the Board that a similar application was brought to the Board next door to the school on 17th Place. He stated they moved in all of their equipment and were ready to open and the Board denied the application.

Mr. Lang pointed out that the adjacent neighborhoods have both been designated as historical neighborhoods. Ms. Turnbo acknowledged that, but stated the subject property is not included in the historical preservation.

Applicant's Rebuttal:

Mrs. Smart stated that at this time traffic in and out of the business is low, and the employees are only part-time. Mrs. Smart thought there were three or four employees and indicated there is one chair for hair appointments and three nail stations. Ms. Turnbo questioned if they would offer tanning booths, massages, facials, and other services. Mrs. Smart did not know.

Mr. Cooper asked staff about landscaping requirements. Mr. Beach responded that a five-foot landscaping strip along the front of the property, and everywhere it abuts the street except for points of vehicular access. He added that 15% of the street yard must be landscaped. He stated that would mean she would lose one or two parking spaces. The Board discussed the traffic that would be generated from other types of businesses on this site; parking that would be required; and hours of operation.

Board Action:

On **MOTION** of Turnbo, the Board voted 2-3-0 (Turnbo, Perkins "aye"; White, Dunham, Cooper "nay"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit a beauty shop in an OL district, finding 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. The **MOTION FAILED** for lack of affirmative votes.

The Board tabled the case until later in the meeting to give Mrs. Smart time to contact the applicant for more information to help the Board make a decision.

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Case No. 19448

Action Requested:

Appeal of the decision of Tulsa Preservation Commission to permit a certificate of appropriateness for a building permit for new structure on subject property, located 1814 S. Detroit

Presentation:

Mark Thurston, 1720 S. Detroit, stated that he represented the applicants (listed in the case file) and Maple Ridge Homeowners' Association. The Board received a copy of the applicants' statement of opposition (Exhibit D-1) prior to the meeting. They appealed the decision of the Tulsa Preservation Commission because they did not believe the application submitted complied with the ordinance, as it did not have the complete information required. They believe that a member of the commission had a conflict of interest. They also believe that the project does not comply with the mandates of the ordinance. He identified items missing as, a list of materials to be used, a site plan, and the dimensions of the location of the new structure with respect to the fronts of the structures immediately adjacent to each side of the lot to be built upon. He gave the Board further details, found in the applicant's statement of opposition (Exhibit D-1). He asked the Board to either throw out the decision as inappropriate or send it back to the commission for a proper application and proper deliberation. He also mentioned the need for a variance of the front setback for the project; and that the notice should be an appeal of the decision of Tulsa Preservation Commission to permit a certificate of appropriateness.

Comments and Questions:

Mr. Cooper asked for specific objections other than the technicalities the applicant listed. Mr. Thurston responded that the objections are the front garages, the house is too large, and the windows are too few and too small.

Interested Parties:

Cathy Ambler, 1129 E. 8th St., stated she is a Preservation Consultant. She submitted a copy of her statement (Exhibit D-2) to the Board. She stated the new construction does not meet the requirement to maintain the dominant relationship of the primary and secondary structures. She also mentioned the windows, which are few and small in comparison to other homes with numerous, large windows. She expressed concern that the commission could make a decision without site plans and floor plans. She indicated that a precedent would be set if the decision was upheld. She suggested that if the decision was denied it would allow for a better project to be submitted and encourage other designers to submit acceptable projects.

Johnna Thurston, 1720 S. Detroit, stated she sent a copy of her statement (Exhibit D-3) prior to the meeting to the Board. Also included in Exhibit D-3 are photographs and information she submitted at the meeting. She was part of the group that was instrumental in obtaining HP overlay zoning for the neighborhood.

The HP zoning was to stabilize the neighborhood and save the character of the historic homes. It was her opinion that the commission did not do their duty in this case. She listed previous projects that came before the TPC that were turned down; or a significant amount of time was spent on details such as materials to be used for windows. She also considered the project to be out of character with the neighborhood.

Connie Desai, 1512 S. Norfolk, stated she has been on the Board of the Maple Ridge Homeowners' Association for over nine years. She has served on the Certificate of Appropriateness sub-committee. Ms. Desai stated that the interpretation of the HP guidelines regarding the subject property is not in keeping with the content or intent of the guidelines. This is what the residents of Maple Ridge want the Board to understand. She noted that some features in this project may be found among the 300+ homes, but there is not one property that has all of the violations condensed into one project. Photographs were submitted (Exhibit D-5).

Joseph Clayberg, 204 E. 18th St., stated the same complaints as listed above. He is opposed to the project.

David Breed, P.O. Box 570976, Tulsa, stated he is the Vice-Chairman of the Tulsa Preservation Commission. He came to represent the commission. He explained to the Board that Ms. deVerges declared at the beginning of the meeting that she had what might be perceived as a conflict of interest. The architect on this project, not one of her accounts, used her bank. The applicant was a co-worker and friend of hers at the bank, but they did not share the business of the bank in any specific way. The chairperson of the commission accepted that explanation as a potential perception but not an actual conflict of interest. The certificate of appropriateness sub-committee noted there was no site plan. Their approval of the application was conditional requiring a site plan to complete the application. The site plan was presented with the application to the commission. Mr. Breed submitted photographs (Exhibit D-6) to show the Board the way the commission viewed the project within the neighborhood.

Mr. Cooper asked for the materials list, because he did not have a copy of them. Mr. Breed responded the materials were listed on the plans. Mr. Boulden asked Mr. Breed if there was any question in his mind that the commission had a complete application at the time they considered this case. Mr. Breed replied the commission understood they had the complete application.

Kent Shell, stated he is staff to the Tulsa Preservation Commission. He wanted to be sure the Board understood that the sub-committee reviewed an incomplete application, and did their part to see the application was completed before it went to the commission. Mr. Boulden asked if he had any concern regarding the notice of the application for the Board of Adjustment hearing. Mr. Shell was not concerned and felt the notice was good. Mr. Shell stated that the commission

does not expect to reach 100% consensus on the design guidelines. They consider the desires of the applicant also. Mr. Shell noted that the commission discussion on the garage was thorough and the rationale sound. Mr. Shell believed that the scale of the house, the height, setback, and materials meet the requirements of the ordinance.

Letters for the appeal (Exhibit D-7) were provided to the Board.

Applicant's Rebuttal:

Mr. Thurston pointed out to the Board that he obtained a copy of the application file. He submitted that the site plan showing the relationship of the proposed structure as to the fronts of the houses on the three adjoining lots as required by the ordinance are not in the file, therefore the commission did not have a site plan as required by the ordinance. He reminded the Board of Section 1051.H.7, the setback definition, and stated no one has had the front setback information.

David Simmons stated he added the dimensions on the site plan (Exhibit D-4) after the sub-committee requested it and prior to the commission hearing. He stated the measurements are from the sidewalk and are accurate.

Board discussion ensued.

Board Action:

On **MOTION** of **Turnbo** to **Uphold the Appeal** of the decision of Tulsa Preservation Commission to permit a certificate of appropriateness for a building permit for new structure on subject property in Case No. 19448, the motion **DIED** for lack of a second.

On **MOTION** of **Perkins**, the Board voted 4-1-0 (White, Dunham, Perkins, Cooper "aye"; Turnbo "nay"; no "abstentions"; no "absences") to **DENY** the Appeal of the decision of Tulsa Preservation Commission to permit a certificate of appropriateness for a building permit for new structure, on the following described property:

N 63.40' of Lots 48 and 49, Block 6, South Side Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19447

Action Requested:

Special Exception to permit a beauty shop in an OL district, located 2112 East 15th Street.

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** of average lot width from 200' to 192.29' for a lot split (19422), per plan, finding each lot is sufficient in size to be legal and proper access exists to the following described property:

The N/2 NE/4 SE/4 NE/4 of Section 9, T-20-N, R-14-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No.19450

Action Requested:

Variance of 30' frontage to 23.8'. SECTION 206. STREET FRONTAGE REQUIRED – Use Unit 6; and a Variance for the average lot width from 75' down to 66.5' to permit a lot split #19425 in an RS-2 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2205 S. Delaware Pl.

Mr. White stated he would abstain from Case No. 19450.

Cooper returned 3:24 p.m.

Presentation:

Mike Marrara, 9936 E 55th Pl., stated he is the surveyor for the applicant to help process a lot split application. The lot was originally platted with E. 22nd Street on the north and S. College Avenue on the east side. In 1988 the streets were vacated by District Court action and are now a part of the property. The applicant would like to maintain the least amount of property around the house in the front. She proposed to create a tract with an access strip for a driveway along the north and sell the tract behind. A site plan was provided (Exhibit F-1).

Comments and Questions:

Mr. Beach questioned Mr. Marrara about the hardship. He responded that she has an excess of land but the only way to use it is to create a separate lot. The created lot would be larger than the required square footage.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Cooper**, the Board voted 4-0-1(Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to **APPROVE** a **Variance** of 30' frontage to 23.8'; and a **Variance** for the average lot width from 75' down to 66.5' to permit a lot split #19425 in an RS-2 district, per plan, finding the hardship

stored on the premises at any one time, and limited to no more than 30 day storage; paint booth to meet all regulations, on the following described properties:

The E 198.00' of the N 133.00' NW/4 NE/4 NW/4, less the E 20.00' of Section 9, T-19-N, R-14-E of the IBM, AND the E 198.00' of the N 32.50' of the S 527.00' NW/4 NE/4 NW/4 of Section 9, T-19-N, R-14-E of the IBM, all of the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19452

Action Requested:

Variance for Section 1302.B from centerline of South Rockford from 50' to 35'. SECTION 1302.B. SETBACKS; a Special Exception allowing off-street parking on a lot other than the lot containing the use. SECTION 1301.D. GENERAL REQUIREMENTS – Use Unit 12; and a Special Exception allowing parking on a lot in an RM-2 zoned district. SECTION 404.H.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located N of NE/c E. 15th St. & Rockford.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he was representing the Hide-A-Way Pizza organization, along with Ted Sack and his firm. The application is regarding the plans for proposed parking to accommodate the existing restaurant to the new site. He submitted photographs (Exhibit H-2) to the Board. He pointed out the two vacant houses to be removed and the mature trees to be preserved. Mr. Norman submitted a revised site plan (Exhibit H-1) to the Board. The landscaping will exceed the requirements. There will be a solid wood screening fence along the alley. Light standards will be no more than 12' in height. The dumpster will be in a bricked enclosure. They plan to put up a barrier to prevent parking on the sidewalk.

Interested Parties:

Steve Walter, 1428 S. Rockford, stated he has no objections to the project. He commended the applicant for good planning and contacting the neighborhood.

Mr. Norman added one condition to his application, that there will be no dining outside on the north of the building.

Board Action:


On **MOTION** of **Dunham**, the Board voted (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** for Section 1302.B from centerline of South Rockford from 50' to 35', finding that it would line up with the multi-family building; a **Special Exception** allowing off-street parking on a lot other than the lot containing the use; and a **Special Exception** allowing parking on a lot in an RM-2 zoned district, per revised plan submitted today, with condition for no dining outside the building on the north

side, 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 9, 10, 11, and N 10.00' Lot 12, Block 5, Bellview Addition, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 4:10 p.m.

Date approved: October 8, 2002



Chair