

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 851
Tuesday, October 8, 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

**MEMBERS
ABSENT**

Perkins

**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, October 3, 2002, at 12:00 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.

REQUESTS FOR CONTINUANCE AND CASES WITHDRAWN

Case No. 19456

Action Requested:

Variance of requirement of 20' building line in back yard to 5'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; Variance of requirement that the dwelling cannot take up more than 20% of required rear yard to 25%. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards; Variance for swimming pool to be placed in side yard. SECTION 210.B. YARDS, Permitted Obstructions in Required Yards, located 204 E. 27th Pl.

Presentation:

Mr. Beach informed the Board that the applicant has withdrawn the application, but the owner wants to continue with the application. A neighbor had a concern and offered a suggestion for a compromise. They need additional time to work things out before they come to the Board.

Steve Schuller, 100 W. 5th St., Ste. 500, stated he represented the neighbor and agrees to the continuance.

Scott Veach, 204 E. 27th Pl., the owner, stated he agrees to 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. 19456 to the meeting on October 22, 2002 to allow the applicant more time to prepare presentation, regarding the property described as follows:

Lot 12, Block 18, Sunset Terrace Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

MINUTES

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Turnbo "aye"; no "nays"; no "abstentions"; Perkins, Cooper "absent") to **APPROVE** the Minutes of September 24, 2002 (No. 850), as amended.

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UNFINISHED BUSINESS

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.

Cooper arrived at 1:11 p.m.

Presentation:

Steve Sembritzky, 4525 S. Jamestown, submitted information sheets (Exhibit A-1) to the Board. He informed the Board that services to be offered in the beauty shop would be offered by three manicurists, one pedicurist, one hair stylist, one massage therapist, one that gives facials, with a maximum of eight possible operators. All of the employees are never there at the same time. In answer to the Board's questions regarding traffic, the maximum number of customers could be 44 plus eight employees, equals the possibility of 52 cars per day coming in and going out. He stressed that at no time are all of the operators there. The traffic count for that portion of 15th Street is 20,100 vehicles on average per day. Mr. Sembritzky stated as best he could determine the hours of operation are around 9:00 or 10:00 a.m. to 7:00 p.m., closed on Sundays and Mondays. He felt that a

restriction of those hours would be a hardship on the business. He stated it is a small operation. He stated he has not seen the maximum numbers he has presented. He stated he has made many improvements to the property, including landscaping. He submitted photographs (Exhibit A-2) of other business parking in the area. He talked with the neighbors the day before this meeting and gave them a tour of the shop. He described it as a convenient location among other businesses for people to walk to the shop.

Interested Parties:

Todd Lang, 1529 S. Yorktown Pl., stated he is the President of the Gillette Historic District. They were concerned about the use under a future owner. The traffic is a concern to the neighborhood. He informed the Board that the shop is still open and operating even though the Board asked them not to operate until the case was heard. Mr. Lang indicated this could discourage residential buyers. He suggested that it has an impact on the historic preservation area even though it is not in that zoning area. He submitted a letter (Exhibit A-3) from Mark Steinmetz, President of the Yorktown Neighborhood Association, which was similar in objections presented.

Mike Ives, 1530 S. Yorktown Pl., stated he could not hear over the jackhammer, and asked the Board to repeat if the special exception remains with the property. Ms. Turnbo replied that if the Board approved the special exception, it goes with the land no matter who owns it.

Susan Douze, 1521 S. Yorktown Pl., expressed concern that the special exception was for a beauty shop but according to the brochure for the establishment calls it a day spa. It has more services than the normal beauty shop, including massages, body waxing, and tanning. She also noted that they will be serving alcoholic beverages to the customers. She submitted the brochure (Exhibit A-4) to the Board. She thought it was somewhat misrepresented to the Board.

Mike Ives, stated he is a real estate broker. He complimented the owner on the previous tenants that were located on the subject property. He identified the location to be a desirable location. He asked the Board to allow the applicant to maintain in the OL and pursue the OL type tenants because he has done very well in the past.

Applicant's Rebuttal:

Mr. Sembritzky stated he did not mean any disrespect to the Board by letting the beauty shop move in and open before the hearing. He was under the impression that the services to be offered in the shop were comparable to other salons around town.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") 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, on the following described property:

W 50.00' N 170.00' of Lot 5, and E 10.00' N 170.00' of Lot 6, Block 1, Maywood Addition, City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 19453

Action Requested:

Special Exception to allow a sporting goods store with 1,000 square feet of customer food service area. SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements; and a Variance from the required 118 parking spaces to 87 parking spaces. SECTION 1214.D. USE UNIT 14. SHOPPING GOODS AND SERVICES, Off-Street Parking and Loading Requirements, located 4535 S. Harvard Ave.

Presentation:

Dwayne Flynn, 7912 E. 31st Ct., stated that he and Paul Williams represent Tollie Denton in the purchase of the Tulsa Athletic Club pending approval of the special exception. Ms. Denton is the owner of Sports World. The health club is a U.U. 19 non-conforming use in the OL zoning. They would like to continue under this use unit as a sporting goods store with 1,000 square feet of food service area and the 87 existing parking spaces.

Tollie Denton, 5800 S. Lewis, stated she has a small deli with ten stools at a deli bar, four tables and three chairs per table. Mr. Dunham asked if some customers come just for the deli. Ms. Denton replied only a few. Ms. Denton stated they only serve sandwiches and soup.

Comments and Questions:

Ms. Turnbo asked how much square footage would be in the sporting goods store. Ms. Denton replied there would be 25,000 square feet. Mr. Boulden asked for the hardship for the variance. Mr. Flynn responded that they could use the green belt behind the building to provide the 118 spaces but they felt that the existing 87 spaces exceed the need. Ms. Turnbo asked about plans for the existing pool. Mr. Flynn replied that the owners would either keep it for private use or fill it in.

Interested Parties:

Ann Waldon, 3325 E. 46th St., stated that her back yard almost abuts the subject property. She is opposed to the sporting goods store. They were shown proposed plans by the previous owner and none of those plans were followed. She considered the building an eyesore. She described the heavy traffic, which she

expected would be made worse. Ms. Waldon also informed the Board that they have had a problem with rats and water drainage problems. She reminded the Board this is an OL zoned area and retail does not belong there.

Lynn Butterworth, 4516 S. Jamestown Ave., stated their property is adjacent to a tip of the subject property. She described the residential area as large lots and trees with a country atmosphere, and no curbs. She expressed the same concerns as previously mentioned; and suggested better nearby locations for retail. She noted that a 1,000 square foot deli is not a small deli.

Jane Katz, 4543 S. Harvard, stated she and her husband have the orthodontist office next door to the property. They came with concerns but not necessarily to protest.

Myron Katz, 4543 S. Harvard, stated that if the Board was inclined to approve the application, he would prefer more green space and fewer parking spaces for better water drainage.

The Board received a letter from the Mortgage Clearing Corporation (Exhibit B-1).

Applicant's Rebuttal:

Paul Williams, 7912 E. 31st Ct., submitted photographs (Exhibit B-3) for the Board. He informed the Board they would only be using about 15,000 square feet for the store and deli, the rest would be for storage. The outside of the building would be improved with a façade. There will be no windows on the back or sides. Ms. Denton hopes her business will grow, but even if it tripled she would have ample parking. An artist sketch was submitted (Exhibit B-4).

Comments and Questions:

Mr. White asked about the number of employees. Mr. Williams stated Ms. Denton has six full-time employees and can arrange six to eight. The hours would be 9:00 a.m. to 6:00 p.m., Monday through Saturday. Mr. White read the letter from Ms. Denton stating the parking needs (Exhibit B-2).

Board Action:

On **MOTION** of **Turnbo**, the Board voted 3-1-0 (White, Dunham, Turnbo "aye"; Cooper "nay"; no "abstentions"; Perkins "absent") to **DENY** a **Special Exception** to allow a sporting goods store with 1,000 square feet of customer food service area, finding it would result in an increased incompatibility to the present and future uses of the proximate properties, as well as be contrary to the harmony, spirit and intent of the Code, and that a retail store would be injurious to the neighborhood and detrimental to the public welfare; and a **Variance** from the required 118 parking spaces to 87 parking spaces, on the following described property:

All of Courte House, a Re-subdivision of Lots 4 & 5, Block 2, Villa Grove Heights No. I, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19454

Action Requested:

Variance of side yard setback from 15' to 5'. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6, located 535 E. Queen St.

Presentation:

Monte McElroy, 110 S. Greenwood, with the Tulsa Development Authority, stated the contractors would present the case.

Curtis Eckwood, 809 E. 54th St. N., stated he purchased the land with the intentions of building. The property is too small for the home they propose to build.

A site plan was provided (Exhibit D-1).

Comments and Questions:

Mr. White commented the Board has approved such cases in this area before. Mr. Beach noted the property is only 50' wide and if it was platted today it would be platted wider to allow for the corner lot. Mr. White observed that much improvement has been made on the lots in this area.

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 side yard setback from 15' to 5', per plan, finding the size of the lot is not large enough to meet the current zoning code, on the following described property:

Lot 7, Block 2, Harding Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19455

Action Requested:

Special Exception to permit an auto salvage yard in an ~~IM~~-zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 28; and a Special Exception to modify or remove the screening requirement along side and rear lot lines. SECTION 1228. USE UNIT 28. JUNK AND SALVAGE YARDS, located S side of Apache St., ¼ mile E of 129th E. Ave.

Presentation:

Mark Thurston, 5514 S. Lewis, stated this application is for the west 12.36 acres, zoned IM. They propose an auto salvage yard, and request waived or modified screening requirements. He submitted a map (Exhibit C-2) showing the surrounding salvage yards. He described the property previously used as an

asphalt plant, as having a substantial bed of gravel through the acreage and is raised from the level of the roadway and adjoining properties from three on up to eight feet on the back of the property. Mr. Thurston submitted photographs (Exhibit C-1). He pointed out other salvages have six foot chain link fences in this area. He proposes to use chain link fencing with fabric material to screen. He also requested to have screening waived where the vegetation screens. He stated that the property to the south zoned AG is in a flood plain, which will probably never be any substantial use of the property. They propose to construct a building of 6,000 to 10,000 square feet on the northeast corner of the IM property and it would be screened from the corners of the building to the back. Mr. Thurston stated they would screen the zoning boundary between the IL and IM property to prevent spill-over. He also noted the requirement to screen the front of the property except in front of the building.

Comments and Questions:

Mr. Boulden questioned the applicant about the fabric material on the chain link fence.

Bill Ryan, 817 N. Lewis, explained to the Board the fabric is like that used for tennis courts. It is breathable for air to flow through it, and has been used at other salvage businesses. Mr. White asked how long it is expected to last. Mr. Ryan indicated it might need to be replaced every five to ten years.

Mr. Cooper asked Mr. Thurston to mark a map showing where the screening fence would be placed. Mr. Thurston did so on (Exhibit C-3).

Interested Parties:

There were no interested parties who wished to speak.

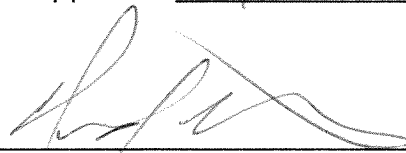
Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to permit an auto salvage yard only in the IM zoned district; and a **Special Exception** to modify or remove the screening requirement along side and rear lot lines, with conditions for a six-foot chain link fence with fabric covering to be maintained at all times, to extend along west property line approximately ½ the distance to where the foliage begins; along the zoning line between the IM and IL district from the front all the way to the back, and all of the Apache frontage except at the building, on the following described property:

The N/2 NE/4 NW/4 of Section 28, T-20-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma, less the N 209.00' of the E 209.00' thereof.

There being no further business, the meeting was adjourned at 2:54 p.m.

Date approved: October 22, 2002

A handwritten signature in black ink, appearing to be 'H. P. ...', written over a horizontal line.

Chair