

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 852
Tuesday, October 22, 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
Perkins
White, Chair

**MEMBERS
ABSENT**

Turnbo

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and amended agenda of said meeting was posted at the City Clerk's office, City Hall, on Monday, October 21, 2002, at 10:49 a.m., as well as in the Office of INCOG, 201 W. 5th St., Suite 600.

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.

CONTINUATIONS AND CASES WITHDRAWN

Case No. 19461

Action Requested:

Special Exception to permit Use Unit 14 in an IM zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 14 & 15; and a Variance of required parking from 86 to 84 spaces. SECTION 1215.D. USE UNIT 15. OTHER TRADES AND SERVICES, Off-Street Parking and Loading Requirements, located 6235 E. 13th St. S.

Presentation:

Mr. Beach announced the applicant requested a continuance to November 12, 2002.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins, "aye"; no "nays"; no "abstentions"; Turnbo, Cooper no "absent") to **CONTINUE** Case 19461 to the meeting on November 12, 2002, regarding the following described property:

A tract of land in the NE/4 of Section 10, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract being that part of the SW/4 SW/4 NE/4 NE/4 less the S 30.00' thereof, and a part of the NW/4 SW/4 NE/4 NE/4 and a part of the SW/4 NW/4 NE/4 NE/4 less the W 150.00' of the N 50.00', and a part of the SE/4 SW/4 NE/4 NE/4, more particularly described as: Beg. at a point, said Point being on the N right-of-way line of 13th Street, a distance of 30.00' N 0°27'40" E of the SW/c NE/4 NE/4 of Section 10, with bearings based on the S boundary of Section 10 being due E; thence N 89°55'48" E along the N right-of-way line of 13th Street a distance of 593.66' to a point for corner, said Point being the intersection of the N right-of way line of 13th Street and the W right-of-way line of Norwood Ave.; thence N 0°26'48" E, along the W right-of-way line of Norwood Ave. a distance of 272.13' to a point for corner, said point being 1,025.45' S (along the E boundary of Section 10) and 730.00' W (perpendicular to the E boundary of Section 10) of the NE/c of Section 10; thence N 89°33'12" W, a distance of 263.50' to a point for corner; thence N 0°27'40" E a distance of 685.49' to a point for corner; thence S 89°55'48" W, a distance of 180.00' to a point for corner; thence S 0°27'40" W a distance of 50.00' to a point for corner; thence S 89°55'48" W, a distance of 150.00' to a point for corner on the W boundary of the SW/4 NW/4 NE/4 NE/4 of Section 10; thence S 0°27'40" W, a distance of 910.00' to the POB.

* * * * *

Case No. 19467

Action Requested:

Variance of the average lot width in an RS-1 zoned district from 100' to 80'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 4455 S. Gary.

Presentation:

Mr. Beach informed the Board that it was discovered today the applicant has not requested enough relief. The applicant requests a continuance to November 12, 2002.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins, "aye"; no "nays"; no "abstentions"; Cooper, Turnbo "absent") to **CONTINUE** Case No. 19467 to the meeting on November 12, 2002 to allow the applicant to provide more information for a new notice, regarding the following described property:

Lot 6, Block 2, Villa Grove Park, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

MINUTES

On **MOTION** of Dunham, the Board voted 3-0-0 (White, Dunham, Perkins, "aye"; no "nays"; no "abstentions"; Turnbo, Cooper "absent") to **APPROVE** the Minutes of October 8, 2002 (No. 851).

* * * * *

UNFINISHED BUSINESS

Case No. 19453

Action Requested:

The Board tabled this case until Mr. Cooper's arrival.

* * * * *

NEW APPLICATIONS

Case No. 19456

Action Requested:

Mr. White discovered he would need to abstain. The case was tabled until Mr. Cooper's arrival.

* * * * *

Case No. 19457

Action Requested:

Variance of the required side setback from 15' to 5' 9" to rebuild a non-conforming building and to add an addition on the rear of the existing house. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 2128 E. 26th St.

Presentation:

Alan Staab stated he is the home owner and **Brian L. Freese**, 6144 S. Lewis, #300, is the architect for this project. The existing structure is non-compliant, as it was built before the zoning changes. They propose to extend the garage wall to the south an additional 14', which would bring it to 5'9" from the lot line. The back yard slopes down to the 100 year flood plain line, prohibiting building further in that direction. They have shared the plans with the neighbors to the west and they have no objection to the application. A site plan was provided (Exhibit B-1).

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins, "aye"; no "nays"; no "abstentions"; Turnbo, Cooper "absent") to **APPROVE** a **Variance** of the required side setback from 15' to 5' 9" to rebuild a non-conforming building and to add an addition on the rear of the existing house, per plan, finding this is the continuation of an existing non-conforming building, and finding it will 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:

All of Lot 9 and part of Lot 8, more particularly described as follows, to-wit: Beg. at the NW/c Lot 8; thence Ely along the N line of said lot 10' to a point; thence Sly on a straight line to a point on the S line of said lot 10' Ely from the SW/c of said lot; thence Wly along the S line of said lot 10' to the SW/c of said lot; thence Nly along the W line of said lot 190.95' to the POB, all in Block 2, Forest Hills, City of Tulsa, Tulsa County, State of Oklahoma.

~~*~*~*~*~*~*~*~*

Case No. 19458

Action Requested:

Variance of 47.5 square feet (display area) to allow 101.17 square feet (ground sign on Memorial Drive frontage). SECTION 602.B.4.c ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions; a Variance of height of sign from 20' to 23'-11". SECTION 602.B.4.e. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions; and a Variance to allow a changeable copy sign to show time and temperature. SECTION 1221.C.2. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs, located 218 S. Memorial Dr.

Presentation:

Randall Pickard, 10051 S. Yale, Ste. 203, stated he is an attorney and he was representing Arvest Bank. He introduced Larry Choate, and Kathy Thompson for Arvest Bank, and Mir Khezri for Acura Neon, Inc. Mr. Pickard stated that on December 11, 2001 an application was presented to the Board for a special exception for a drive-through bank on this property on Memorial Drive. The zoning was OL and the Board approved the special exception. The bank has been constructed and should be ready to occupy in about one month. A site plan was provided with the application (Exhibit C-1) and Mr. Pickard submitted a labeled aerial photograph (Exhibit C-2). He pointed out the CH zoning to the north; the Wal-Mart Supercenter to the east (CH zoned); Keyport Self-Storage to the east; RSM (CH zoned) also to the east; and to the south is OL zoning with a very large parking lot. There is a residential district to the north, with two residences that front on Memorial, and the two houses to the north are used for businesses according to the signs. He submitted photographs (Exhibit C-4) to show the intersection with signals and other views of the intersection, bank and surrounding area. He submitted a sign plan (Exhibit C-3). He indicated that the commercial districts

around the subject property make the sign appropriate in this location. He pointed out a nearby Wal-Mart sign, which is 40' high, and yet the proposed sign is much smaller.

Interested Parties:

Ronald Hale, 8009 E. 2nd St., stated he owns this property. He expressed concern regarding the traffic that the hill and the sign would obstruct the view. He added that he was also concerned that he and his neighbors would have a problem with the bank driveway being so close to their driveways on the residential street.

Comments and Questions:

Mr. Beach commented there is nothing in the zoning code that prohibits a driveway access in an OL zoning to access a residential street. Mr. White recalled the same concerns in the application the year before. After lengthy discussion the Board determined that moving the drive farther to the west would resolve the problem.

Applicant's Rebuttal:

Mr. Pickard reminded the Board that the sign would have a ten-foot clearance.

Cooper arrived at 1:33 p.m.

He reiterated that though the subject property is OL, the surrounding property is commercial with more intense use and provides a compatible use for this type of sign. He reminded the Board that the special exception was approved, which allows for a more intense use. This is one of several locations for this business, this one having the particular use of a drive-through window. The signs are ready-made, and ready to install on site. He felt it would be an unnecessary hardship to require Arvest Bank to make a special variation of the sign for this one location.

Comments and Questions:

Ms. Perkins noted that he is establishing a financial hardship, which the Board cannot consider. Mr. Pickard responded that to lower the sign would make it more accessible to vandalism; the electrical code requires that it be at least 10' high. He asked if the Board was inclined to approve the variance that they include the time and temperature as a community service.

Cooper stated he would abstain since he did not hear the presentation.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-0-1 (White, Dunham, Perkins, "aye"; no "nays"; Cooper "abstained"; Turnbo "absent") to **DENY** a **Variance** of 47.5 square feet (display area) to allow 101.17 square feet (ground sign on Memorial Drive frontage); a **Variance** of height of sign from 20' to 23'-11"; and a **Variance** to allow a changeable copy sign to show time and temperature, finding a lack of hardship, on the following described property:

A part of the E/2 SE/4 NE/4 of Section 2, T-19-N, R-13-E, of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Beg. at a point on the E line of said Section 2, said point being 1,095.00' N SE/c NE/4 said Section 2; thence W along a line parallel to the N line of the S/2 NE/4 of said Section 2, a distance of 232.00' to a point; thence N and parallel to the E line of said Section 2, a distance of 138.00' to a point; thence E along a line parallel to the N line of the S/2 of the NE/4 of said Section 2, a distance 232.00' to a point on the E line of said Section 2; thence S along the E line of said Section 2, a distance of 138.00' to the POB; AND a tract of land located in Section 2, T-19-N, R-13-E, more particularly describe as follows, to wit: Beg. 995' N of SE/c NE/4; thence W 232.00'; thence N 100.00'; thence E 232.00'; thence S 100.00' to the POB.

*****.

CASE FOR RECONSIDERATION

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; 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:

Raymond Lord, 1703 E. Skelly, stated he was working with the Dentons on this case. Since the last hearing of this case Robert Studebaker obtained signatures on a petition requesting reconsideration and approval of this application.

Comments and Questions:

Mr. White asked if any of the interested parties present at the last meeting have changed their minds. Mr. Lord replied that Dr. Katz has changed from a neutral position to being fully in favor of the application since he heard more about the project. Mr. White noted the petition signatures are mostly businesses from 41st to 46th S. Harvard. Mr. Lord pointed out the first four pages are businesses and the last two pages are residential. Mr. White stated the residential addresses are about ½ mile east of Harvard, and he was looking for some on Indianapolis and Jamestown closer to the site. Mr. Lord informed the Board that more signatures are being obtained in the immediate proximity. Two neighbors with property abutting the subject property are now willing to sign the petition in favor of the application.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19453 to the meeting on November 26, 2002 for reconsideration, regarding 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. 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; a 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; and a 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:

Scott Veach, stated he is the owner of the subject property. They propose to build a breezeway, attaching the detached garage and the house only. He submitted a revised site plan (Exhibit A-1).

Comments and Questions:

The Board and staff determined that the breezeway will not make the garage an attached garage. The breezeway is considered an accessory building as well.

Interested Parties:

Larry Henry, 100 W. 5th St., Ste. 500, stated he represented the neighbors, Robert and Joann Hale. They are in support of the application.

Board Action:

On **MOTION** of **Cooper**, the Board voted 3-0-1 (Dunham, Perkins, Cooper "aye"; no "nays"; White "abstained"; Turnbo "absences") to **APPROVE** a **Variance** of requirement that the dwelling cannot take up more than 20% of required rear yard to 25%, per the plan as re-submitted for the breezeway only, and does not include anything on the plan labeled new, finding the shape of the lot creates a hardship for the property, as described:

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

*.*****.

Case No. 19459

Action Requested:

Variance of the required 25' setback to 18'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS -- Use Unit 6; and a Variance of the allowable building height in an RS district from 35' to 36' for an addition to an existing dwelling. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 2132 S. Norfolk Ave.

Presentation:

Roger Coffey, 324 E. 3rd, with Olsen, Coffey Architects, stated he represented the owners Richard and Beverly Schafer. They propose to remove the existing garage and build a new rear wing to the residence and new attached garage. It would require building within 18' of the rear property line, in order to construct a driveway to the garage. The Tudor design has a steeply pitched roof and with a ridge height of about 37'. A site plan and documentation of square footage was provided (Exhibits D-1 and D-2).

Comments and Questions:

Mr. Dunham noted that the new structure would not protrude as far into the back yard as the existing structure.

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a Variance of the required 25' setback to 18'; and a Variance of the allowable building height in an RS district from 35' to 36' for an addition to an existing dwelling, per plan, finding the addition and change in the property will be less intrusive than existing conditions, and finding it will 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:

Lot 4, Block 8, Sunset Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

..*.*.*.*.*.*.

Case No. 19460

Action Requested:

Variance of 150 square feet display surface area and 20' height sign restrictions in an RM-1 district to permit relocation of an existing non-conforming sign. SECTION

402.B.4.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 8, located S & W of SW/c E. Skelly Dr. & E. 21st St.

Presentation:

John W. Moody, 1924 S. Utica, Ste. 700, stated he represented the owners of the American Village on the Lake Apartments. The property was condemned and acquired where the sign was located. Mr. Moody indicated the proposed site to the southwest on the site plan. They propose to put the existing sign on a monopole. He researched but could not prove that the existing sign is a legal, non-conforming sign that may have been present before the apartment complex was built. He introduced **Terry Howard**, with Commercial Signs, who was present to answer any questions. A site plan was provided (Exhibit E-1).

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of 150 square feet display surface area and 20' height sign restrictions in an RM-1 district to permit relocation of an existing non-conforming sign, per plan, finding the sign is a legal non-conforming use, and the move was imposed by highway improvement plans, on the following described property:

Lots 1 and 2, Block 40, of Blocks 39 and 40, Longview Lake Estates, City of Tulsa, Tulsa County, State of Oklahoma, less and except the right-of-way for I-44 highway.

Case No. 19462

Action Requested:

Special Exception to amend a previously approved site plan, located NE/c E. Latimer & 129th E. Ave.

Presentation:

Wally Wozencraft, 1619 S. Boston, stated he represented Church on the Move. He informed the Board they propose to add a school, locker room, toilet facility, a ticket booth with toilet facilities, and toilet facilities south of the football stadium. He also pointed out proposed parking areas.

Comments and Questions:

Mr. Cooper suggested as he has previously that the applicant needs to consider a PUD.

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to amend a previously approved site plan, with revisions located in the NE/c and E portions of the property, per plan submitted today, on the following described property:

Lots 1 and 2, Block 1, Trinity Park Addition, a Re-subdivision, and Lot 1, Block 1, Trinity Park East Addition, a Re-subdivision, all part of NW/4 SW/4 and part of NW/4 and part of W/2 NE/4 SW/4 of Section 33, T-20-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19463

Action Requested:

Variance to allow an accessory building in the front yard. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6; and a Variance of the allowable size of accessory buildings in the aggregate from 750 square feet to 2,868 square feet. SECTION 210.B.5.a. YARDS, Permitted Obstructions in Required Yards, located 17802 E. 12th St.

Presentation:

Terry Duke, 17802 E. 12th St., stated they propose to build an accessory metal building for personal storage of autos, equipment and an exercise area. Spunky Creek runs through the property and the topography slopes enough to affect the available building area. A site plan and elevation map were provided (Exhibits G-1 and G-2).

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** to allow an accessory building in the front yard; and a **Variance** of the allowable size of accessory buildings in the aggregate from 750 square feet to 2,868 square feet, per plan, with condition there be no commercial activity conducted in this new building, finding the property is large enough, and because of the topography it would be better to put it in the front yard than the rear yard, on the following described property:

Lot 3, Block 2, Lynn Lane Drive, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19465

Action Requested:

Special Exception to allow automobile sales in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; and a Variance to allow open air storage within 300' of an adjoining residential district. SECTION 1217.C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions, located 9130 E. 11th St.

Presentation:

Kenton Kirchner, 6330 E. 4th Pl., proposes to open a car lot. He reminded the Board that the property was previously Ace Wrecker. He has plans to improve the property.

Comments and Questions:

Mr. White asked Mr. Beach to elaborate on the staff comments regarding the use unit allowed on this property. Mr. Beach stated that in July 2001 in an appeal of an administrative official, the Board overturned the decision of the administrative official and found the wrecker service on the property to be classified as a Use Unit 28. Mr. Beach noted that in October 2000 the Board denied a special exception to permit a U-Haul trailer rental, auto sales, minor vehicle repair; and denied a variance to permit outdoor storage or display of merchandise offered for sale within 300'; denied a variance of all-weather-surface; and denied a special exception to waive the screening requirement. Mr. Boulden added that the case was taken to District Court, was filed, and when Ace Wrecker moved it was dismissed.

Interested Parties:

Hank Brandt, 8937 E. 15th St., stated he represented Mingo Valley Homeowners' Association. He was concerned about another car lot opening. He noted there is not much frontage and not much room to display cars. He pointed out it is a gravel lot and abuts a residential area. He complained they already have problems with cars traveling fast down the street, and peeling out. Mr. Brandt was concerned this would double the problem. He also stated concern for what they will do with the back of the property.

Al Nichols, 8525 E. 16th St., stated he is also with the Mingo Valley Homeowners' Association. He indicated it would have been good if the applicant had contacted them before the hearing. They are concerned of having problems like the last business. He noted that no hardship was mentioned.

Jack Waterfield, 8820 E. 16th St., stated he had lived there since 1949, and helped in forming the homeowners association. He did not consider it to help the aesthetics of the neighborhood.

Comments and Questions:

Mr. Dunham commented that the property has a history of owners that did not take good care of the property. Mr. Dunham suggested if there is a type of business to

which the neighbors would be agreeable, they could request a continuance to allow time for the applicant to meet the neighborhood. Ms. Perkins informed the interested parties that a motel, hotel, or recreational facility could be built on this property without having to come to the Board.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19465 to the meeting on November 12, 2002 to allow time for the applicant and neighborhood to discuss the application, on the following described property:

Beg. 50.00' S and 165.00' W of the NE/c NW NE of Section 12, T-19-N, R-13-E; thence S 280.00'; thence W 165.00'; thence N 144.57'; thence NE 134.54'; thence E 105.00' to the POB, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:07 p.m.

Date approved: November 12, 2002



Chair