

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 853
Tuesday, November 12, 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 Wednesday, November 6, 2002, at 11:20 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.

Mr. Cooper arrived at 1:02 p.m.

CONTINUANCES AND CASES WITHDRAWN

Case No. 19465

Action Requested:

Mr. Beach informed the Board the applicant has withdrawn this application. He added that the application might transfer to another applicant. Mr. Beach asked if anyone present was interested in the property. No one responded.

MINUTES

On **MOTION** of **Perkins**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of October 22, 2002 (No. 852).

Case No. 19277

Action Requested:

Amendment to the minutes of January 22, 2002 Board of Adjustment meeting, regarding Case No. 19277.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated it was never the intention of the applicant or staff for approval of the application per site plan as stated in the Board action. The intent was to follow the standard procedure of approval of a detailed sign plan by the TMAPC.

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** an Amendment of the Minutes of January 22, 2002 regarding Case No. 19277 per staff recommendation.

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UNFINISHED BUSINESS

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:

Bruce Bolzle, 5550 S. Lewis, stated he represented Habitat for Humanity, the owner and occupant of the property. They purchased the building and then found deficiencies in the zoning. He pointed out that there are in excess of 86 parking spaces on the site, however only 84 of them meet the zoning requirements. The 33 additional parking spaces exceed the parking needs.

Comments and Questions:

Mr. Cooper asked where the 33 extra parking spaces are located. Mr. Bolzle replied there are 25 spaces immediately to the east of the resale area, and you have to back out into the street from those spaces. There are another eight spaces immediately south of the 30,000 foot warehouse on the west of the complex.

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 **Special Exception** to permit Use Unit 14 in an IM zoned district; and a **Variance** of required parking from 86 to 84 spaces, finding there is sufficient parking and thirty-three additional parking spaces that cannot be counted that would more than offset the deficiency, on 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.

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Case No. 19467

Action Requested:

Variance of the average lot width in an RS-1 zoned district from 100' to 78'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 4455 S. Gary.

Presentation:

Loren Ashford, 1611 S. Utica, Ste.195, submitted a packet of information (Exhibit A-2). She stated that fire damaged the house and they plan to have it removed in the next thirty days. She pointed out that all of the lots that are not in the flood plain have been split, except for her lot. Her lot is 220' deep on one side and 190' deep on the other side. She noted that several lots in the neighborhood do not meet the minimum lot width of 100'. A survey (Exhibit A-1) was submitted.

Comments and Questions:

Mr. White questioned the 78' lot width requested. Ms. Ashford explained that INCOG used a formula to figure the average lot width. The street has a curve that cut into one corner of the lot front.

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 average lot width in an RS-1 zoned district from 100' to 78', per the survey submitted, finding the original lot is far bigger than the average lot in the area and the proposed split would be more in keeping with the other lots in the neighborhood, on the following described property:

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

NEW APPLICATIONS

Case No. 19464

Action Requested:

Variance of the requirement that a corridor development's access shall be principally from an internal collector street. SECTION 804. ACCESS REQUIREMENTS – Use Unit 17, located N of NW/c of E. 101st St. S. & Memorial Dr.

Presentation:

Darin Akerman, 6111 E. 32nd Pl., stated he is an engineer with Sisemore, Weisz and Associates, Inc. He stated there is a 500' depth between Memorial Dr. right-of-way and the rear property line of the site. He informed the Board there is a plan for a mutual access easement through the Jim Norton PUD project along the frontage of their site from 98th to the subject site. Mr. Akerman considered it to be the most feasible and proper way to gain access to these properties on Memorial Dr. He added that with Audubon Park established, it would be prohibitive to run a collector road on the subject site to 98th Street.

Interested Parties:

Shannon Benge, 9945 S. 79th E. Ave., stated she is a resident in Audubon Park within 300' of the subject property. She noted that the pending PUD has not been approved by the City Council so it appears to be too soon for this action. She also pointed out that the access requirements in Section 804 are to prevent exacerbation of existing traffic problems. The area is very congested because 101st St. is still a two-lane road. She stated there have not been proper traffic studies to show whether it would be a negative impact to the commercial and

residential neighborhood. She mentioned that she was unaware of an approved site plan, which is required in a corridor district for use changes.

Comments and Questions:

Mr. Beach stated that a detailed site plan would be required after the PUD approval. He added that the PUD was recommended by the Planning Commission for approval. Ms. Bengé informed the Board that a protest has been filed with the City Council on that PUD. Mr. White asked for the objection to the PUD. Ms. Bengé replied the objection was that it is not consistent with the Comprehensive Plan.

Glenn Terry, 9963 S. 79th E. Ave., stated he protests the application, because of the current traffic problem on S. Memorial and 101st St. He described a back up of traffic on Memorial from 81st St. to 101st St. from 3:00 p.m. to 6:00 p.m. most afternoons. He suggested if the lot is not deep enough for their dealership and an access road, then they should find another location.

John Mansfield, 7829 E. 99th Pl., stated he is opposed to the application for the reasons already stated. He believes this action to be premature, and may not be in the best interest of what might happen in the future.

Karen Forbes, 9957 S. 79th E. Ave., stated she is opposed for the previously listed reasons.

Todd Morgan, 7822 E. 100th St., stated the Creek Nation Expressway off-ramp is contributing to the traffic jam in the evenings. The access road is needed to divert traffic from the off-ramp and 101st St.

Applicant's Rebuttal:

Mr. Akerman agrees there is a lot of traffic in that area. He commented that this application is regarding a variance for the road service to the site versus the principle access points on Memorial Dr. The PUD has been approved by the Planning Commission. He stated the Planning Commission spent a lot of time in discussion of access to the site.

Comments and Questions:

Ms. Turnbo asked for clarification of the discrepancy of terms being used for the streets and roads. She noted that 98th Street South is a collector street. Mr. Beach agreed.

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 requirement that a corridor development's access shall be principally from an internal collector street, finding it would be an unnecessary

hardship to require a collector street because it would not serve any other properties, on the following described property:

The N/2 S/2 SE/4 SE/4 and the S/2 S/2 N/2 SE/4 SE/4 of Section 23, T-18-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, less the E 120.00' thereof and less the W 768.92' thereof.

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Case No. 19466

Action Requested:

Special Exception for a church and accessory uses in an RM-1 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance to allow building 12' from an abutting R district. SECTION 404.F.4. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located 2022 N. Kingston.

Presentation:

Adam Jones, 2021 N. Joplin, stated his church does a lot of community outreach. They propose to use a 24' x 34' modular unit for benevolence distribution of clothing and dry goods. They also plan to hold an after-school program for the middle school age children. This would be a 24 month temporary set up. He submitted a petition (Exhibit B-1).

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 **Special Exception** for a church and accessory uses in an RM-1 district; and a **Variance** to allow building 12' from an abutting R district, both the Special Exception and Variance for no longer than twenty-four months, 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:

Lots 1, 2, 3, Block 6, Town of Dawson, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19468

Action Requested:

Special Exception to allow a landscape contracting service Use Unit 15 in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15; and a Special Exception of screening requirements on

east end of south side (screening on 110' west end, south side), located 1126 S. 120th E. Ave.

Presentation:

Jose Zamarripa, 1126 S. 120th E. Ave., submitted photographs (Exhibit C-1). He has a landscaping service. He does not have a fleet of trucks and trailers. He parks 100' from 119th Street. He noted that other residential properties have trailers with mowers on them. He has been parking there since before he bought the property and no one ever complained. This year he has received nearly fifteen complaints.

Comments and Questions:

Ms. Turnbo noted that his property was rezoned recently. Mr. Boulden asked Mr. Zamarripa what kind of shrubs he has on the side of the residential property. Mr. Zamarripa replied he has one big tree on the south side. He added that his neighbor had no objection to no screening on the east end of the south side.

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 **Special Exception** to allow a landscape contracting service Use Unit 15 in a CS zoned district; and a **Special Exception** of screening requirements on east end of south side, except for the screening on west 110' of the south side, on condition there be no commercial activity in the immediate area, on the following described property:

A tract of land being a part of the NE/4, NW/4, Section 8, T-19-N, R-14-E of the IBM, Tulsa County, State of Oklahoma, described as follows: beg. at a point 355' W of the NE/c of said NE/4, NW/4, thence S a distance of 619.75' to the true POB; thence W a distance of 280' to a point which is 700.8' N of the S line of the NE/4, NW/4 of said Section; thence S a distance of 75.8' to a point; thence E a distance of 280' to a point; thence N a distance of 75.93' to the true POB.

Case No. 19469

Action Requested:

Variance of the provisions of Section 602.B.4.b to permit four signs located on or oriented to the South 103rd East Avenue frontage and three signs oriented to the Mingo Valley Expressway frontage. SECTION 602.B.4.b. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Use Conditions – Use Unit 11, located E side of S. 103rd E. Ave., N of E. 41st St.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represented Junior Achievement. One year ago the Board approved a plan for the location of their building. About one-half of the building is to be used for office and the other half for exchange city, an educational program. This is part of a planned unit development approved in 1980. The signage is restricted to one sign not exceeding 32 square feet. At the time the applicant felt the size would be sufficient. One of the conditions regarding signage that came with a significant grant from the Donald W. Reynolds Foundation was for identification reflecting the name of the foundation. They asked for 90.88 square feet total for all seven signs. A site plan was provided (Exhibit D-1).

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 provisions of Section 602.B.4.b to permit four signs located on or oriented to the South 103rd East Avenue frontage and three signs oriented to the Mingo Valley Expressway frontage, per plan, finding the size and nature of the tract with the street frontage would create the hardship, and 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:

A tract of land that is part of Lot 1, Block 2, Bishop Acres, City of Tulsa, Tulsa County, State of Oklahoma, said tract being more particularly described as follows: Beg. At the most Wly corner of said Lot 1; thence N 62°28'32" E the Wly line of Lot 1, for a distance of 25.05' to a point of curvature; thence continuing along said Wly line along a 375.00' radius curve to the left, having a central angle of 29°30'00", for an arc distance of 193.08' to a point of compound curvature; thence continuing along the Wly line along a 1000.00' radius curve to the left, having a central angle of 1°54'09", for an arc distance of 33.21' to a point; thence S 55°20'29" E for a distance of 108.81' to a point; thence S 41°16'18" E for a distance 224.64' to a point on the Ely line of Lot 1; thence S 31°26'24" W along said Ely line, for a distance of 330.55' to a point; thence due W along the Sly line of Lot 1, for a distance of 88.16' to a point; thence along the Wly line of Lot 1 NWly along a 675.00' radius curve to the left, having an initial tangent bearing of N 13°55'36" W, a central angle of 13°35'52", for an arc distance of 160.20' to a point of tangency; thence continuing along said Wly line N 27°31'28" W, for a distance of 219.97' to the POB.

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Case No. 19470

Action Requested:

Special Exception to allow Use Unit 17 (auto sales) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17; a Variance to allow open air display of merchandise within 300' of an R district. SECTION 1217.C.2. USE UNIT 17; Use Conditions; and a Variance of screening requirements from abutting R district. SECTION 1217.C.1. USE UNIT 17; Use Conditions, located 6574 E. 71st St. S.

Presentation:

Mark Rudder, 404 W. Utica Pl., Broken Arrow, Oklahoma, stated the property was previously a gasoline station. Braum's has purchased it and will put in a restaurant in the near future. He submitted a photograph (Exhibit E-1) to the Board. Mr. Rudder proposes to have a open air car sales on the subject property for the next eighteen months. He indicated the property was approved previously for a car lot. He stated that the neighboring businesses have showed support of the application.

Comments and Questions:

Mr. Dunham suggested that Mr. Rudder read the staff comments before he gave his rebuttal.

Interested Parties:

Joe Gross, 3745 E. 46th St., stated he was speaking for the Gross Company, L.L.C. at 6501 E. 71st St. They are opposed to the special exception, as it is not consistent with other businesses in the area.

Applicant's Rebuttal:

Mr. Rudder responded that by improving the property it would increase the business in the whole area. He stated he could agree to conditions previously approved except to change the hours of operation to extend to 8:00 p.m. Monday through Friday and 6:00 p.m. on Saturday.

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 **Special Exception** to allow Use Unit 17 (auto sales) in a CS zoned district; a **Variance** to allow open air display of merchandise within 300' of an R district; and a **Variance** of screening requirements from abutting R district, finding that even for an eighteen month period 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:

Lot 1, Block 2, Kirkdale Commercial Center, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19471

Action Requested:

Variance of the required 50' setback from the center of East 32nd Street North to 34.9' for new one story building. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 15, located 3209 N. Lewis.

Presentation:

David Armstrong, 1927 W. Concord Circle, Broken Arrow, Oklahoma, stated he was representing American Building Systems. He introduced Mr. Amos Adetula, the property owner. The application is for a new building.

Comments and Questions:

Mr. Dunham pointed out there is an existing building that does not meet the setback requirement. Mr. Armstrong stated that on the east end of the property, about 650' from Lewis is an existing fence that is 31' from the centerline. He added that 32nd Street ends at the corner of the property because of the new expressway. He pointed out that the property immediately to the east of the subject property is owned by the city. They are trying to properly use the space. A site plan was provided with the application (Exhibit F-1). Mr. Beach asked why they couldn't rotate the building to meet the setback requirement. Mr. Armstrong referred that question to the owner.

Amos Adetula, 5000 E. 94th St., Sperry, Oklahoma, explained that he has a lot of job site trailers to park. Employees also park in that area. The business is growing, making it impractical to change the plan.

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 50' setback from the center of East 32nd Street North to 34.9' for new one story building, per plan, finding there are already buildings in the area that are probably at no greater setback than this, and 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:

The property is located: 3209 North Lewis. Legal Description: S/2 S/2 NW/4 SW/4 NW/4, Section 20, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19472

Action Requested:

Variance of required front yard of 35' to 18'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 3123 E. 67th St.

Presentation:

Greg Florence, 1021 E. 33 Pl., with Golden Hammer Construction, stated they propose to remove the existing porte-cochere and replace with another one in the same place. He indicated the zoning has changed and the existing structure is over the building line. The new structure would be open beam construction and more consistent with the neighborhood. Photographs were submitted (Exhibit G-1).

Comments and Questions:

Ms. Turnbo asked if it was detached or if not replaced would it infringe on the integrity of the front of the house. Mr. Florence replied that it is detached. Mr. Dunham responded that it could be considered attached, that it has the same roof line as the house. Mr. Dunham felt that it could be removed without harming the integrity of the house.

Interested Parties:

John Trinder, 3130 E. 67th St., stated his concern was that the existing structure was in violation to the zoning ordinance. He indicated that it was constructed twenty years ago. He stated it is an eyesore, though he did not consider it to be in disrepair. The main complaint was that it was too close to the street.

Mr. White out at 3:00 p.m.

The Board and staff discussed whether the structure was built in compliance with the zoning code or if the setback ordinance has been changed. Mr. Beach suggested that the case could be continued to determine if it is lawfully non-conforming.

Mr. White returned at 3:02 p.m.

Mr. Cooper stated he could not find the hardship, and he was not finding proof that it was a pre-existing condition.

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 **CONTINUE** Case No. 19472 to the meeting on November 26, 2002, to allow applicant to prove when the structure was built, on the following described property:

Lot 19, Broadmoor Hills, City of Tulsa, Tulsa County, State of Oklahoma.

OTHER BUSINESS

2003 BOA Meeting Schedule

The Board of Adjustment meeting schedule for 2003 was presented to the Board in the agenda packet. Mr. Beach pointed out the amendment of cut-off date for the November 4th meeting should be October 2, 2003 not October 9, 2003. Mr. White stated they should strike the December 23, 2003 meeting. Mr. Beach informed the Board that the first meeting in November was moved to the first Tuesday of the month because of a conflict for the use of the Francis Campbell Council Room.

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** the 2003 BOA Meeting Schedule as amended.

There being no further business, the meeting was adjourned at 3:05 p.m.

Date approved: November 26, 2002



Chair