

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 891
Tuesday, July 13, 2004, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Stephens
Turnbo
White, Chair
Perkins

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Beach
Butler
Alberty

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Monday, July 12, 2004, at 10:43 a.m., as well as at 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.

MINUTES

Mr. Beach informed the Board that Mr. John Moody and Mr. James L. Kincaid had comments regarding the minutes of the June 22, 2004 hearing before the Board was to vote. The Board listened to the comments. Mr. Dunham then verified they were asking the Board to adopt a different set of guidelines in lieu of the guidelines provided at the previous hearing and the electronic copy of the guidelines submitted by the applicant that were part of the motion for BOA Case No. 19804. Mr. Moody responded that his conclusion was correct.

Mr. White stated the Minutes of June 22, 2004 (No. 890) would be continued to the meeting of July 27, 2004 for a vote.

UNFINISHED BUSINESS

Case No. 19840

Action Requested:

Variance of the required 15' side yard to 5', located: 3003 S. Detroit Ave. E.

Presentation:

The applicant was not present. Mr. White stated they would hear the case later on the agenda.

NEW APPLICATIONS

Case No. 19856

Action Requested:

Variance of Chapter 10, Landscape Requirements, located: 1856 N. 105th E. Ave.

Presentation:

Dana Hutson, 1909 W. Yellowwood Ave., stated he is with B.R. Hutson, Inc. He described to the Board the hardship is that the subject property is in a flood plain. They will have to give up the west 120' of the property. They would dedicate that portion for a compensatory storage easement; and raise the front of the lot one foot above the flood plain.

Comments and Questions:

Mr. Dunham sought more clarification. Mr. Hutson replied that the property is actually about 680' deep, but a little over 200' of that is in Mingo Creek. The useable land will be between the street and the dike. He asked that approval would not be per the plan because the building layout may change a little.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of Chapter 10, Landscape Requirements, finding the hardship to be that the west portion of this property will be retained in a natural state and will not be built upon, and this will exceed the landscape requirements, on the following described property:

LT 9 BLK 1, WOLF POINT INDUSTRIAL PKWY WEST.

Case No. 19840

Action Requested:

Variance of the required 15' side yard to 5', located: 3003 S. Detroit Ave. E.

Presentation:

Mr. Beach informed the Board that he contacted Lance McGuire and Mr. McGuire chose to withdraw his application. He has rearranged the house plans to comply with the zoning code.

Board Action:

No action needed on the following described property:

LT 1 BLK 7, Travis Park Addn.

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Case No. 19857

Action Requested:

Special exception to amend a previously approved site plan, located: 17120 East 21st St.

Presentation:

Greg Warren, 1710 W. Charles Page Blvd., stated the request is to allow remote control boats and cars at the Carl Smith Sports Complex. There were representatives from the remote control boat and car club, if the Board had any questions. A site plan was provided (Exhibit B-1).

Comments and Questions:

Mr. Dunham asked about the off-road track. Mr. Warren replied that it is a small track to run off-road remote control cars. Mr. Boulden asked if they would be gas-powered cars and if they are noisy. Mr. Warren stated they are gas-powered. The applicants spoke to the owner of the house to the south and they had no objection. They also spoke with the neighborhood association and obtained their support.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special exception** to amend a previously approved site plan, per the amended site plan, on the following described property:

NW NE & N/2 SW NE LESS N50 THEREOF FOR RD SEC 14 19 14 58.48AC & NW NE NE & S/2 NE NE & SE NE & S/2 SW NE & E/2 NW SEC 14 19 14 110 AC.

Case No. 19859

Action Requested:

Special Exception to permit auto sales with light repairs to make cars ready for sale. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 8235 E Admiral PI N.

Presentation:

Robert Converse, 3418 W. 51st St., stated he is a real estate associate for Mr. Romero. Mr. Romero has a contract to purchase the subject property contingent on approval by this Board. He buys autos from auctions, does some repairs to sell them. The building would require extensive work to make an office. The building is about 4500 sq. ft. and the parking is about 19,500 sq. ft. as it exists, with more room for parking if needed. He would have two to three employees to do small repairs but not paint and body work.

Comments and Questions:

Ms. Turnbo asked what kind of repair work they would do on the cars outside. Mr. Converse explained they would not be doing any extensive repairs, and detailing work would be done inside the building. Mr. Boulden noted the request states light repairs. He asked what that would include. Mr. Converse responded it would be detail work but not mechanic work. Mr. White asked if the Board was inclined to approve would there be a problem limiting it to detailing. Mr. Boulden asked about fencing. Mr. Converse indicated it would probably be a two to three high foot pipe fence. Mr. Converse stated there would not be any inoperable vehicles stored on the property. Mr. White asked if anything would be done with the old miniature golf course. Mr. Converse replied that it would be a long time before he did anything with it. Mr. White asked the maximum number of cars they plan to have on the lot. Mr. Converse replied there would be about 40 vehicles. Mr. Stephens asked if there would be any other uses. Mr. Converse replied there were no plans for other uses. The parking lot is paved with asphalt and one small area of concrete.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit auto sales with light detailing of cars, with conditions: no more than 40 vehicles offered for sale on the premises at any one time; if a fence is erected on the Admiral side of the property, it is not to exceed three feet in height, a pipe style barrier; and no inoperable vehicles stored on the premises, on the following described property:

PRT LTS 4 THRU 7 BEG SECR LT 4 TH N55.97 SW412.43 NE399.92 POB & ALL LTS 9 THRU 11 BLK 4, MINGO TERRACE.

Case No. 19860

Action Requested:

Appeal the decision of administrative official that the fence on the subject property is in conformance with the Zoning Code, located: 5333 E. 93rd St. S.

Presentation:

George Compton, 9223 S. Erie Ave., stated he represented the Darlington South Homeowner's Association. They talked with the City and after hearing the complaint, withdrew the case.

Board Action:

No action needed.

LT 12 BLK 2, Darlington South, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19861

Action Requested:

Special Exception to permit required off-street parking on a lot other than the lot containing the use, variance of required number of parking spaces from 152 to 30. SECTION 1219.C. USE UNIT 19. HOTEL, MOTEL, AND RECREATION USES, located: 10 S LEWIS AVE E.

Presentation:

Jean Letcher, P.O. Box 50750, Tulsa, Executive Director of the Circle Cinema Foundation, stated they have purchased the old theatre and other property at 10 and 12 S. Lewis Ave. They are renovating the theater as a cinema; and building a second, smaller black box theatre in the next building. They will be doing this project in four phases. The third phase will be a small bistro to be open in the evenings; and the fourth will be renovation of the second floor of the theatre as office space. Ms. Letcher informed the Board they own a parking lot behind the theatre with thirty parking spaces, which they plan to improve. The special exception is because there is an alley between the building and the parking lot. She submitted a map (Exhibit C-3) and stated there are almost 400 parking spaces available to them in the surrounding area. When this area was developed the current zoning code did not exist. She submitted a letter of support from Mr. Ziegler (Exhibit C-1) and a letter of support from Mr. Swinney would be forthcoming. She pointed out their parking needs are during the day and the theatres and restaurant would need parking in the evenings. They plan to bus children to the theatre during the day time. She mentioned the parking behind the Kendall-Whittier Library and the U.S. Post Office. They do not have formal agreements but have been told the space would be available in the evenings since those facilities are not in operation in the evening. A letter of support from Mr. Swinney was provided (Exhibit C-2).

Comments and Questions:

Ms. Turnbo asked if they plan to contact the City of Tulsa and the library to see if they can use the parking. Ms. Letcher asked Jim Coles to reply.

Jim Coles, 111 S. Greenwood Ave., stated he is the Principal Planner for City of Tulsa in the Kendall-Whittier Neighborhood. He informed the Board that the City built the parking lot across the street from the subject property because parking was a hardship for al the businesses in the neighborhood. It is available for this project.

Mr. White asked if they have a letter from Mr. Swinney. Ms. Letcher replied that he had planned to attend and bring the letter, but he was not present. Mr. White stated that with Mr. Swinney’s 90 parking spaces and Mr. Ziegler’s letter for 72 spaces they would have more than enough parking. Ms. Letcher indicated the parking requirement included the proposed restaurant and offices. Mr. Boulden questioned this since the restaurant and offices were not included in the application. Mr. White asked the proposed seating of the restaurant. She replied it would seat 40 – 50, and is supposed to be for theatre patrons, not just anyone off the street.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit required off-street parking on a lot other than the lot containing the principal use, variance of required number of parking spaces from 152 to 30, on conditions: received a letter of support from Mr. Ziegler and upon receipt of a letter of support from Mr. Swinney, finding the sum of those parking spaces plus those owned by the applicants would meet the parking requirements; and there seems to be plenty of parking in the area that would be available, as this business would be operating at a time other than when most businesses are open; and the planned Bistro would be an accessory use to the theatre, on the following described property:

Case No. 19862

Action Requested:

A variance of the required number of parking spaces from 14 to 13. SECTION 1211. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, located: 9202 S. Toledo Ave. E.

Presentation:

Danny Mitchell, 5110 S. Yale, Ste. 510, stated the building has been occupied since May 2002. He submitted a photograph (Exhibit D-1) and informed the Board that Neighborhood Inspections found the parking lot to be one parking space short.

lot split, on the condition that Tract II be split from Tract I, and Tract II would be tied to the Sharp Tract, finding these two tracts have existed for years with less than the 200' minimum of frontage; and finding this would not be any different, on the following described property:

Beg. (10') N (SE) corner of Government Lot (1), thence N (70'), W (277'), N (82.7') to a point on the S line of the railroad right-of-way; SW along the right-of-way to a point on the S line of Government Lot (1), thence (397.99'), N (10'), E (245') to the POB, LESS AND EXCEPT beg. on the (NW) corner of Lot (16), Block (3), BERRY ADDITION, thence N (93.22') to a point on the S line of the railroad right-of-way, thence SW along the right-of-way (229.7') to a point on the S line of Government Lot (1), E (214.5') to the POB, Section 1, Township 19 North, Range 12 East, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19864

Action Requested:

Special exception to permit a manufactured home and a special exception to request extension of 1 year limitation in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9, located: 3615 S Maybelle.

Presentation:

Vicki Smith, 3615 S. Maybelle, stated she has Lots 31, 32, and 33. She proposed to connect a manufactured home to an existing stick built home by a new structure between the two for additional bedrooms and bath. There would be no kitchen. The addition would be on Lot 32. The addition would extend over the property line by five feet.

Comments and Questions:

Ms. Turnbo mentioned the need for a tie agreement. Ms. Smith responded that she already has a tie agreement. Mr. Alberty pointed out that even if the Board grants this relief, she will still need to meet the requirements of the building code.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19864 to the meeting on July 27, 2004, to determine if more relief is needed.

LT 32 BLK 7, Garden City, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19865

Action Requested:

Variance of the maximum time period allowed for a temporary accessory tent from 89 days to 180 days per year for 10 years, variance of the required setback for an accessory tent. SECTION 223 (3). TEMPORARY ACCESSORY TENTS and SECTION 702.B.1. ACCESSORY USES PERMITTED IN COMMERCIAL DISTRICTS, located: 6390 E 31ST ST S.

Presentation:

Mark Rosenberger, 13545 E. 168th St., Bixby, Oklahoma, stated that in the past he has returned for a new permit when his time limitation ran out for use of a tent. This year when he went to apply, he was informed that he was supposed to apply for a variance. He informed the Board he has a refrigerator where he stores his produce in the shopping center.

Comments and Questions:

Mr. Dunham stated the tent is the principle use not an accessory use. He asked staff what relief he should have. Mr. Beach replied if the tent is the principal use then it comes under different rules. Mr. Dunham suggested he needs different relief.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** to the meeting of August 10, 2004, regarding the following described property:

PT EA LOTS 2 & 3 BG 50' W MOST NLY NE/c LT 2 DUE S 405' TO PT 25' S N
L LOT 3 W 300' N 405' E 300' POB BLK 1, SHERIDAN CIRCLE RESUB PRT
B1 & B7 LORRAINE HGTS.

Case No. 19866

Action Requested:

Special exception to expand an existing previously approved motorcycle dealership, and a variance of the required setback from the Memorial Drive service road for a changeable copy message sign from 20' to 10'. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17 and SECTION 1221.C.2. USE UNIT 21. BUSINESS SIGNES AND OUTDOOR ADVERTISING, located: 3637 S MEMORIAL DR E.

Presentation:

Larry Wofford, 3637 S. Memorial Dr., stated he is the President of the Route 66 Harley Davidson. He proposed to expand the dealership with a two-story addition on the north end of the property with a garage and warehouse space; and a two-story addition on the south end with a showroom and a general purpose meeting room. He also proposed to add an LED message board to be constructed ten feet from the service road in front of the dealership instead of the normal 20'. He stated the hardship would be if they had to move it into their parking lot; and it is already set back an extra distance because of the service road from Memorial; and it would make it more difficult to see. He indicated they would be in compliance with all of the sign codes in terms of size of signage. A site plan was provided (Exhibit E-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special exception** to expand an existing previously approved motorcycle dealership, and a **variance** of the required setback from the Memorial Drive service road for a changeable copy message sign from 20' to 10', per plan, finding the hardship to be the service road separating the property from Memorial Dr.; an existing sign at the same setback; and would decrease visibility to Memorial Dr., on the following described property:

LT 1 BLK 1, LT 2 BLK 1, LT 3 BLK 1, LAZY CIRCLE ACRES, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19867

Action Requested:

Variance of required yard abutting a public street from 30' to 15' to permit a new garage and an addition to an existing dwelling; Variance to expand a nonconforming structure. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; SECT. 1405. STRUCTURAL NON-CONFORMITIES, located: 2108 E 31ST ST S.

Presentation:

Steven and Barbara Martin, 2108 E. 31st, stated they have lived in their home since 1980. The garage has to be replaced. They propose to replace it with another detached garage. It would be placed further south to four to five feet from the property line. A site plan was provided (Exhibit F-1).

Comments and Questions:

Mr. Dunham noted a couple of large trees that would have to come out if they did not obtain this relief. He commented that would be more detrimental to the neighborhood than the variance.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of required yard abutting a public street from 30' to 15' to permit a new garage and an addition to an existing dwelling, per plan, finding the hardship to be this is to replace an existing garage at a 15' setback; and to move it further east would require the removal of some large trees in the back yard; and a **Variance** to expand a nonconforming structure, per plan, finding it will not extend further than the garage, on the following described property:

LT 1 BLK 2, BREN-ROSE ADDN, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19869

Action Requested:

Special exception to permit auto sales in a CS district; Variance to allow outdoor display of merchandise within 300' of an R zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS; 1217.C.2.; SECTION 1217.C.2. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES; Use Conditions, located: 6100 S SHERIDAN RD.

Presentation:

Bob Zelm, 6762 E. 25th Pl., stated he represented the applicant, Abdul Alhlou. It is not his intention change the steakhouse to a used car dealership. He proposed to have no more than ten cars at any one time. There would be no detail work, no repairs at any time. They would be placed on the frontage with a sale sign only. Ms. Perkins questioned the use of ten parking spaces for car sales when they fill the parking lot at times. Mr. Zelm replied there are 88 parking spaces according to the plat, and the required spaces are only 54. The parking lot fills up on special occasions, but is not that way all of the time. The lube shop to the south allows them to use their parking.

Comments and Questions:

Mr. Stevens asked about a sales office. Mr. Zelm replied there is no sales office. Ms. Perkins commented on the busy intersection. Ms. Turnbo expressed concern about the R zoned district within 300'. Mr. Zelm stated the cars would be parked

on the extreme northeast corner of the property. There would be no more than ten cars with sale signs in the cars.

Interested Parties:

Mike Myers, 7060 S. Yale, Ste. 704, with Realty Operating Company, stated they are the manager of Park Plaza Shopping Center. They have a problem with individuals parking cars on their lot to sell and he expected this would encourage it. They do not believe it is an appropriate use.

Applicant's Rebuttal:

Mr. Zelm did not consider this to be a negative impact on the shopping center because of the distance and elevation differences. He stated that the cars for sale would be removed for increased parking needs on special holidays.

Comments and Questions:

Mr. Alberty stated from a planning stand point, staff would be opposed to this use. Staff would need a detail site plan showing the number of parking spaces, how many employees it takes to staff the restaurant. He considered it to be an inappropriate use. Mr. Boulden noted it would be two principal uses on the lot, not accessory to the restaurant.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special exception** to permit auto sales in a CS district; **Variance** to allow outdoor display of merchandise within 300' of an R zoned district, finding it would 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:

BEG 50S & 50W NEC NE TH S200 W200 NE 282.8 POB LES S BEG NEC THEREOF TH S20 NW14.46 TO WLY L TH NE17. 11 POB SEC 3 18 13 .456AC, BEG NEC NE NE TH W250 S250 NE POB LESS BEG NEC THE REOF TH W250 S55 E177 SE13.02 TO ELY L TH NE APROX 87.83 POB FOR ST SEC 3 18 13 .435AC, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19870

Action Requested:

Special exception to permit an automobile car wash in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 250' N of NE/c E. 91st St. and S. Yale Ave.

Presentation:

Eric Sack, 1111 S. Elgin, proposed an automatic car wash. It is not tied to the Quik Trip. A site plan was provided (Exhibit G-1).

Interested Parties:

Mike Myers, 4619 E. 93rd Pl., noted that the City of Tulsa plans to widen the intersection and south Yale to the turnpike.

Applicant’s Rebuttal:

Mr. Sack stated they are aware of the street widening and the site plan takes into account ultimate right-of-way and setbacks.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special exception** to permit an automobile car wash in a CS zoned district, per plan, on the following described property:

LT 2 BLK 1, 9100 YALE, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19871

Action Requested:

Variance of the maximum coverage of the required rear yard by an accessory building from 25% to 35%, located: 1370 E 26TH PL S.

Presentation:

Jeff Levinson, 35 E. 18th St., stated he represented the property owner. The property was occupied by an old house, which has been removed. They propose to build a new house and garage in the back. The hardship is the irregularly shaped lot, 135' x 65'.

Comments and Questions:

Ms. Turnbo noted it was comparable to the neighborhood.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the maximum coverage of the required rear yard by an accessory building from 25% to 35%, per plan, finding this to be a non-conforming lot as to width; and finding it would be beneficial to the neighborhood to have a new home on this lot, on the following described property:

LT 6 BLK 1, TRAVIS HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma.
