

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 866
Tuesday, June 10, 2003, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Cooper
White, Chair
Turnbo

**MEMBERS
ABSENT**

Perkins

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, June 6, 2003, at 10:33 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.

CASES TO CONTINUE AND CASES WITHDRAWN

Case No. 19570

Action Requested:

Special Exception to allow Use Unit 5 for an existing church. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Approval to amend a previously approved site plan for expansion of the existing church as approved per BOA 17955 (adding to sanctuary, rest rooms, and child care area); a Variance of existing setback encroachment along Gary Street to extend sanctuary. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; a Variance to allow existing parking in the required front yard. SECTION 1205.B.1. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES; and a Special Exception to waive screening on north where new parking area abuts a residential district. SECTION 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 3188 E. 22nd St.

Presentation:

Mr. Beach stated that staff recommends a continuance to June 24, 2003, because it took longer to prepare the notice.

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. 19570 to the meeting on June 24, 2003, regarding the following described property:

Block 1, Wil-Ray Terrace, Lot 1, Block 1 and Lot 1, Block 7, Bonnie-Brae Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19584

Action Requested:

Variance of the required rear yard from 20' to 7'. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts, located 2680 E. 69th St.

Presentation:

Mr. Beach informed the Board that Mr. Prather could not be present and asked for a continuance to June 24, 2003.

Mr. Cooper arrived at 1:10 p.m.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19584 to the meeting on June 24, 2003, regarding the following described property:

Lot 2, Block 3, Sherrelwood Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19621

Action Requested:

Request by Charles E. Norman to accelerate the hearing of BOA-19621 from the scheduled meeting of July 8, 2003 to the meeting of June 24, 2003, regarding:

Appeal of the issuance of Zoning Clearance Permit Application #322457 as being improperly issued and in contradiction with the Laws of the State of Oklahoma and the Ordinances of the City of Tulsa, including, but not limited to, those grounds set forth in Exhibit A, located East of Southeast Corner Hazel Street and South Cincinnati Avenue.

Presentation:

Mr. Beach informed the Board that Mr. Prather is bringing an appeal from a decision to issue permits related to a non-conforming lot at this location. The notice was given and scheduled for July 8, 2003. Mr. Norman is representing the owners of the lot in question and asked that the application be accelerated to June 24, 2003. Mr. Prather could not be here but asked that this request be continued to June 24, 2003.

Roger Eldridge, 2900 Mid-Continent Tower, stated he is a partner of Charles Norman. They are interested in speeding up the process of resolving issues for their clients who have already experienced delays.

Board Action:

Dunham made a **Motion to Reschedule** an Appeal of the issuance of Zoning Clearance Permit Application #322457 as being improperly issued and in contradiction with the Laws of the State of Oklahoma and the Ordinances of the City of Tulsa, including, but not limited to, those grounds set forth in Exhibit A, located East of Southeast Corner Hazel Street and South Cincinnati Avenue, to June 24, 2003.

Mr. Dunham withdrew his motion, and the case was tabled to the end of the agenda to give Mr. Prather's representative time to arrive.

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MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the Minutes of May 27, 2003 (No. 865).

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NEW APPLICATIONS

Case No. 19601

Action Requested:

Variance of average lot width from 60' to 58' to permit lot split #19535. 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 3121 S. Rockford Dr.

Presentation:

Jeffrey Levinson, 35 E. 18th St., stated he is the attorney for the owner of Universal Property Development. They seek to reduce the front setback line from 60' to 58'. His client purchased a single, large lot and proposed to divide it into two

lots. Though it is RS-3, it is larger than RS-2 lots. In the immediate area there are only three to four lots that exceed the lot width in this application. The lot is an unusual shape, and the City of Tulsa is asking additional dedication of right-of-way on the west property line.

Interested Parties:

Larry Harral 3127 S. Rockford Dr., pointed out the access will be from the rear of the properties, in a gated community without storm sewers or curbs. He submitted photographs (Exhibit A-2) of existing houses and the vacant property. He is concerned with privacy, as his and other houses are one-story, and if new houses are two-story he asked that no windows be placed on the second floor on the side facing his or another house. A site plan was provided (Exhibit A-1). A letter of opposition was provided to the Board (Exhibit A-3).

Applicant's Rebuttal:

Mr. Levinson stated that on the east of Rockford there are only two lots with over 60' of frontage. Mr. Harral already sold his client a 50' lot in the same subdivision.

Board Action:

On **MOTION** of Dunham, the Board voted 3-1-0 (White, Dunham, Turnbo, "aye"; Cooper "nay"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of average lot width from 60' to 58' to permit lot split #19535, per plan, finding there are other lots in the area that are smaller than the proposed lots, and there is such a minor variance requested that 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:

That part of Lots 1 and 2, Peoria Acres Addition, City of Tulsa, Tulsa County, State of Oklahoma, described as follows: Beg. at a point on the E line of said Lot 1, 202.55' S of the NE/c thereof; thence S 148.00'; thence NWly 216.50' to a point on the W line of said Lot 2, 300.50' S NW/c of said Lot 2; thence N along the W line of said Lot 2, 97.50'; thence E on a line parallel to the N line of said Lots 1 and 2, a distance of 190.60' to the POB.

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Case No. 19602

Action Requested:

Minor Special Exception to permit parking a travel trailer that is higher than 6' within the required side yard and without a 6' screening fence. SECTION 402.B.7.a.(4) ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6, located 14151 E. 24th Pl. S.

Presentation:

Robert Goldsmith, 14151 E. 24th Pl., proposed to place a trailer between two existing houses, on dust free parking area. There is not enough space in the front

or back yards to park properly. He submitted photographs (Exhibit J-1) of the site location.

Interested Parties:

There were no interested parties present 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 **Minor Special Exception** to permit parking a travel trailer that is higher than 6' within the required side yard and without a 6' screening fence, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 27, 28, Block 8, Eastland Acres Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19603

Action Requested:

Variance to allow a detached accessory building in the front. SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS; a Variance of the required 50' setback from the centerline of street to 40'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of required side yard from 5' to 4'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 1327 N. Vandalia Ave.

Presentation:

Joe Cordero, 1327 N. Vandalia, stated that he had the carport built for protection from weather and theft. He indicated that he did not know about needing a permit and the contractor did not mention it. He informed the Board that the carport is four feet from the south property line. His neighbor offered him five feet of her property to help him. He submitted photographs of other carports in the neighborhood and his own and letters of support (Exhibit B-1).

Interested Parties:

Donald G. Snelson, 1328 N. Vandalia, stated he built a carport on his property in 1995. He had to get a permit and did not think the applicant should be able to build one without a permit. He was opposed to the application.

Letters of opposition were submitted (Exhibit B-2).

Applicant's Rebuttal:

Mr. Cordero stated he was ignorant of the fact that when he hired a reputable company to build a carport that they needed a permit. He asked to keep his carport. He informed the Board that he contacted the Midwest Construction

Company in Bixby, Oklahoma and the contractor informed him that he does not get permits and would not request a permit in the future.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** a **Variance** to allow a detached accessory building in the front; a **Variance** of the required 50' setback from the centerline of street to 40'; and a **Variance** of required side yard from 5' to 4', finding lack of a hardship, on the following described property:

Lot 19, Block 2, Morgan Homes, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 19604

Action Requested:

Variance of the required parking for retail/office building from 14 to 5 spaces (1,750 square feet retail) (1,750 square feet office); and a Variance of the required 8.5 parking width to 8'4", located 3311 S. Peoria.

Presentation:

Richard Winn, 1530 S. Harvard Ave., stated they propose to demolish the existing structure and replace it with a two-story building. He provided an amended site plans and floor plans with the application.

Comments and Questions:

Mr. Dunham asked if he could obtain a mutual access agreement from the owner next door. Mr. Winn replied that an easement has been recorded for the two properties.

Interested Parties:

David Paddock, 1101 E. 34th St., stated he that he is in support. He submitted copies of letters of support from neighbors and the Brookside Business Association. The plans provide a nice balance to the area, as in the parking. The business association believes this is an appropriate design. Mr. Paddock considers it a classic infill design.

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 the required parking for retail/office building from 14 to 5 spaces (1,560 square feet retail) (1,560 square feet office); and a **Variance** of the required 8.5 parking width to 8'4", not per plan, but per the parking as submitted, and the front to be in line with existing buildings, 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:

Case No. 19606

Action Requested:

Variance of required frontage in an IM District to 0' to permit lot-split #19540. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS, located S of E. 11th St., W of S. Lewis Ave.

Presentation:

Mike Marrara, 9936 E. 55th Pl., stated this application is to create two tracts. There is an existing cell tower on Tract 1 and Tract 2 has two existing metal buildings. There is a mutual access easement through Tract 2 to Tract 1. The hardship is the unique configuration of being railroad right-of-way originally. It is not platted with street frontage, and is a court ordered sale, which has some bearing on the latitude they have to split the property. 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 **Cooper**, the Board voted 3-0-1 (Dunham, Turnbo, Cooper "aye"; no "nays"; White "abstained"; Perkins "absent") to **APPROVE** a **Variance** of required frontage in an IM District to 0' to permit lot-split #19540, finding it does not have the required frontage now, and with condition for an access easement for Tract 1 through Tract 2, per plan, 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:

A tract of land in the NE/4 of Section 7, T-19-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows: Commencing at a point of intersection of the former Wly right-of-way line of the Missouri Pacific Railroad Company with the W line of S. Lewis Ave. and the E line of Lot 4, Block 7, Terrace Drive Addition; thence N 31°43'39" W along said former Wly railroad right-of-way a distance of 332.00' to a point on the center of the 12th St. right-of-way where it intersects such former Wly railroad right-of-way line, said point being the POB; thence continuing N 31°43'39" W a distance of 293.00'; thence N 58°16'21" E a distance of 50.00'; thence S 31°43'39" E a distance of 293.00'; thence S 58°16'21" W a distance of 50.00' to the POB.

Case No. 19607

Action Requested:

Variance to allow a two-story accessory building from 18' to 20'6". SECTION 210.B.5.a. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; and a Variance

of allowable square feet for accessory building from 1,068 square feet (40% of residence) to 1,377 square feet. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6, located 1540 S. Gillette.

Presentation:

Mr. Beach mentioned that staff did not receive a site plan. He stated the location of the accessory building on the lot would be important.

Jo Glenn, 2425 S. Troost, attorney for Sandra Jackson, stated the house was removed. She showed photos on a lap top to the Board; a site plan and a photograph were submitted (Exhibits F-2, F-1 and F-3). There are a lot of trees and a privacy fence that will provide plenty of screening. It is in the historical district and one of the requirements is for a detached garage. That is the reason for this application. Ms. Glenn pointed out where there are garage apartments and a duplex with garage apartment in the neighborhood. She assured the Board that the room above the garage on the subject property would be a game room, not an apartment.

Comments and Questions:

Ms. Turnbo asked if they had been before the Historic Preservation Commission for approval of this plan. Ms. Glenn replied that according to the builder it was. Ms. Turnbo asked her to be sure the approval is provided in writing to Mr. Beach if the Board is inclined to approve. Ms. Glenn stated that the owner wants to conform to the neighborhood and also meet her own needs. They only need an extra two and one half feet to have a detached garage in keeping with the historical neighborhood. She showed a slide presentation and submitted the CD to the Board (Exhibit F-2).

Interested Parties:

Judy Hollingsworth, 1527 S. Gillette Ave., submitted a letter (Exhibit F-4) that was sent to the neighbors from Mr. Marshall, the builder. She stated her concern that there are three legal non-conforming used garage apartment quarters on Gillette St. (Exhibit F-5) This application would open the door for another apartment. Mr. Dunham commented that the Board can make it a condition of the approval that the second floor of the garage not be used for a residence. The existing garage apartments are non-conforming and have been there for a long time. The Board cannot do anything about them. She submitted a photograph (Exhibit F-3) showing the numerous cars parked on the street. She also noted that it does not meet the criteria as defined by the code.

Sherry White, 1518 S. Gillette, pointed out that the number two item listed in the builder's letter is a self-imposed hardship and is financial. She reminded the Board that the preservation commission does not have prevue over garages, so it could not be approved by the commission. Ms. White pointed out that the garage apartments pointed out by the previous interested party were over two-car garages not three-car garages. She noted that the hardships listed do not meet the

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 the required setback from centerline of East 71st Street from 110’ to 100’ for existing building, per plan, finding this is needed to correct and existing condition, on the following described property:

Lot 5, Block 1, Abdo Commercial Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19609

Action Requested:

Variance of side yard required 10’ to 4’ to permit a detached accessory building in the rear yard in an RS-1 district. 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 2494 E. 49th St. S.

Presentation:

Connie Doak for **John Doak**, 2494 E. 49th St., stated they propose to place a detached garage, with a workspace/storage area, at the end of their driveway. The lot is large and deep. They considered putting it at the rear property line but decided that would not be functional, and they would have to cut down trees. She listed a hardship of the storm water drainage that cuts across the back yard, down the middle of the driveway to a drainage ditch. She had previously provided signatures from all the neighbors in the area stating support of the application. A site plan was provided (Exhibits H-1a and H-1b).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper “aye”; no “nay”; Perkins “absent”) to **APPROVE** a **Variance** of side yard required 10’ to 4’ to permit a detached accessory building in the rear yard in an RS-1 district, per plan, finding it would be placed at the edge of an existing concrete drive; because of the drainage swale it would be difficult to place the proposed building further away from the lot line, 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 8, Block 1, Mannburn Place, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19610

Action Requested:

it is fairly high. They are opposed to court appointed students even though it is a closed campus.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nay"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19611 to the meeting on June 24, 2003, for an official withdrawal or presentation of this case.

Lot 5, Block 2, Marshalltown Center, Re-subdivision; Part of Sheridan Circle and Lorraine Heights, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19621

Action Requested:

Request by Charles E. Norman to accelerate the hearing of BOA-19621 from the scheduled meeting of July 8, 2003 to the meeting of June 24, 2003, regarding:

Appeal of the issuance of Zoning Clearance Permit Application #322457 as being improperly issued and in contradiction with the Laws of the State of Oklahoma and the Ordinances of the City of Tulsa, including, but not limited to, those grounds set forth in Exhibit A, located East of Southeast Corner Hazel Street and South Cincinnati Avenue.

Presentation:

Mr. Beach stated he contacted the applicant's office by phone and was not sure if a representative had arrived.

Interested Party:

Barbara Carson, 624 S. Denver, stated she is with Sanders and Sanders. She commented that she did not know for sure if it would be a hardship on the applicant to accelerate the date. The thing is that this is a big issue in the neighborhood, and property owners were given the date of the hearing for July 8, 2003 and they made plans for the date that was given to them. They were not trying to extend the date.

Mr. Boulden cautioned the Board that if the hearing was accelerated to June 24, 2003, it would appear negatively as being pushed through.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nay"; no "abstentions"; Perkins "absent") to **DENY** the request by Charles E. Norman to accelerate the hearing of BOA-19621 from the scheduled meeting of July 8, 2003 to the meeting of June 24, 2003, regarding the following described property:

The W 50' of Lot 5, Block 14, Sunset Terrace, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to Recorded Plat No. 644.

OTHER BUSINESS

Election of Officers:

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-0 (White, Dunham, Turnbo, Cooper "aye"; no "nay"; no "abstentions"; Perkins "absent") to Delay the election of officers until new appointments have been made, and keep current officers until then.

There being no further business, the meeting was adjourned at 3:32 p.m.

Date approved: JUNE 24, 2003



Chair