

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 868
Tuesday, July 8, 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
Turnbo
White, Chair
Perkins

MEMBERS

ABSENT

STAFF

PRESENT

Beach
Butler

OTHERS

PRESENT

Boulden, Legal
Romig, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, July 2, 2003, at 3:45 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 1:10 p.m.

Mr. Jim Beach read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19622

Action Requested:

Variance of average lot width from 200' to 189'. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT – Use Unit 3; a Variance of side yard setback from 5' to 1'. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT; and a Variance to allow accessory building as principal use. SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT, located 1874 E. 46th St. N.

Presentation:

Mr. Beach stated the application did not include the full legal. He suggested the case be continued to July 22, 2003 for required notice.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19622 for proper notice to the meeting on July 22, 2003, regarding the following described property:

E/2 NE/4 NW/4 NE/4 of Section 18, T-20-N, R-13-E, of the IBM, less and except the N 200.00' of the W 100.00' thereof, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19625

Action Requested:

Special Exception for use as a private neighborhood practice soccer field. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located 1603 N. Wheeling Ave.

Presentation:

Mr. Beach informed the Board that the applicant was not present. Someone indicated to him before the meeting that they wished to withdraw the case but Mr. Beach asked for something in writing from the applicant. He suggested the case be continued to the July 22, 2003 hearing.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19625 to the meeting of July 22, 2003, regarding the following described property:

Lots 10-17, Block 1, Prospect Gardens Addition, City of Tulsa, Tulsa County, State of Oklahoma.

MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of June 24, 2003 (No. 867).

Mr. Cooper arrived at 1:20 p.m.

UNFINISHED BUSINESS

Case No. 19591

Action Requested:

Special Exception to modify screening requirement. SECTION 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 1003 E. 15th St.

Presentation:

John J. Fonder, 1444 S. Norfolk Ave., proposed to have grassy space rather than a screening fence per the plan and as agreed by the interested parties in the previous hearing.

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, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to modify screening requirement, per plan, on the following described property:

Lot 5 and that portion of Lot 8 lying S of the existing ODOT fence and the W/2 (10') of the vacated alley abutting on the E of Lots 5 and 8, all of Block 13, Broadmoor Addition in the City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 19621

Action Requested:

Appeal from 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 E of SE/c Hazel St. & S. Cincinnati Ave.

Presentation:

Paul F. Prather, 525 S. Main, Ste. 1000, submitted a packet of information and a letter from the Maple Ridge Homeowner's Association (Exhibit B-2a and B-2b) to the Board. He stated that he represented the Butler's, who own the property to the east of the subject property. He stated this is a "case of first impression", and has not been taken up before. He added that under Section C of Sect. 1605, Appeals from an Administrative Official, the Board would sit as if they were the zoning code official, with all of the powers to review and interpret the official's decision. Mr. Prather covered the Zoning Code General Principles in the packet. He noted Title 42, Tulsa Revised Ordinances § 101B. 1., where this code imposes a greater

restriction upon the use of the land, the provisions of this code shall govern. He pointed out the photographs in his packet to give the Board a visual. He indicated this property was considered one parcel for seventy years. He informed the Board that the sprinkler system with control panel, and electrical light are all connected to the property on the west, lot six. He covered a brief history of ownership of lot six. He also noted discrepancies in a previous building permit intended for the subject property. He contended that lot six and the west fifty feet of lot five is one lot of record. He requested the Board reverse the Zoning Clearance Permit #322457; find lot six and the west fifty feet of lot five comprise a single lot of record; and find a lot split be required before a zoning clearance can be issued to construct a dwelling on the west fifty feet.

Interested Parties:

Charles E. Norman, 2900 Mid-Continent Tower, stated he represented Mr. and Mrs. Loyal Roach. He contended that Mr. Prather left out a deed of record that he submitted to Mr. Romig and the Board, reflecting lot five is a separate lot of record. He covered the history of changes in the zoning code, allowing non-conforming residential lots after 1970. He showed there were no laws prior to 1970 on lot splits. Mr. Norman indicated there were no encroachments. He covered his client's response to the appeal, listing the violations of ordinances (Exhibit B-3), as submitted to the Board. A plat of survey was submitted (Exhibit B-1).

Letters from interested parties were submitted to the Board (Exhibit B-5).

Rebuttal:

Mr. Prather responded that he did not leave a gap in his report, the date he listed the deed was when it was actually filed. He pointed out a one and one half foot encroachment of the driveway and the gazebo. He noted that the tax records and the County Assessors records have all been paid as one lot for one house. He pointed out that as there were no laws prior to 1970 on lot splits there weren't any on lot mergers either. Mr. Prather stated that as shown by the intent, care of the property, the building, and by the tax rolls the lots were merged. The two houses are on their own lot. He submitted a petition of neighbor signatures (Exhibit B-6).

A letter from the City Attorney was submitted to the Board (Exhibit B-4). A sign-in sheet was submitted with signatures of the interested parties present at the hearing (Exhibit B-7).

Board discussion ensued.

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 **DENY** an Appeal from 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

has a secretary in his office and an attorney also offices there. He submitted photographs (Exhibit C-2) to show the property, available parking, and commercial properties in immediate area.

Interested Parties:

Barbara Penny, 1326 E. 32nd Pl., stated opposition based on two reasons. She indicated that Mr. Stites was not the legal owner; and he was not in compliance with the zoning code. She stated the address he gave is not the correct address. She pointed out two signs in the window of the structure. Ms. Penny also reminded the Board that the structure has not been used for a residence since a short time after the special exception was approved. A packet of information was provided to the Board (Exhibit C-3).

Applicant's Rebuttal:

He informed the Board that they would not need signage.

Comments and Questions:

The Board discussed the size and height allowed by code, but considered it inappropriate for this site.

Board Action:

On **Motion of Cooper**, the Board voted 4-1-0 (Dunham, Turnbo, Perkins, Cooper "aye"; White "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit office use in an RM-1 zoned district, provided there is no signage permitted under this approval, on the following described property:

W 70.00' E 140.00' W 165.00' N 120.00' of Lot 23, Albert Pike Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19626

Action Requested:

Variance of the allowable size for an accessory building from 500 square feet to 1,208 square feet. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6; and a Variance of required setback for accessory building from 3' to 0'. SECTION 210.B.5.b. YARDS, Permitted Obstructions in Required Yards and located 4132 W. 56th St. S.

Presentation:

Larry Baker, 8230 S. Delaware Pl., stated the Board approved variance in 1998 for an accessory building with a tie agreement. He proposes to build it at this time.

Comments and Questions:

Mr. White asked about the house on the property that is totally boarded up. Mr. Baker replied that it is being used for storage. Mr. Beach informed the Board this is an illegal use of residential property. Mr. Baker responded that after they build the garage they plan to repair the house to be occupied. Ms. Turnbo asked how long it would take to prepare the house. Mr. Baker indicated thirty days. The Board determined the second variance was not needed.

Interested Parties:

There were no interested parties present who wished to speak.

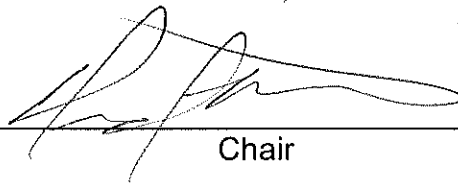
Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of the allowable size for an accessory building from 500 square feet to 1,208 square feet, with condition the house be made inhabitable in ninety days from this hearing; and to **DENY** a **Variance** of required setback for accessory building from 3' to 0', on the following described property:

Lot 8, Block 1, Doctor Carver Addition, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:11 p.m.

Date approved: July 22, 2003



Chair

