

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 869
Tuesday, July 22, 2003, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

White, Chair
Cooper
Dunham, Vice Chair
Perkins

**MEMBERS
ABSENT**

Turnbo

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal
Jackere, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, July 17, 2003, at 2:58 p.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.

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

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:

David Giacomo, Tulsa Development Authority, the applicant asked for a continuance to August 12, 2003.

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. 19625 to the meeting of August 12, 2003, regarding the following described property:

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

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Case No. 19631

Action Requested:

Appeal of the decision of Neighborhood Inspector that existing surface of parking is not dust free, all-weather material. SECTION 222. MOTORIZED VEHICLES and SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 8544 E. Admiral Pl.

Presentation:

Mr. Beach stated that the legal description in the application was incorrect and therefore the notice was incorrect. It could be re-advertised for the August 12, 2003 meeting.

Roy Melton, 8561 E. Admiral Pl., stated he has the property north of the subject property. He was in support of the continuance.

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. 19631 to the meeting on August 12, 2003 for re-advertising, regarding the following described property:

Lot 4, less beg. NE/c; thence S 31.7' W 160.00' N 31.50' E 160.00' POB, Block 3 and E 264.00' Lot 1, Block 8, Day Suburban Acres, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19627

Action Requested:

Mr. Beach informed the Board the case was withdrawn before advertising and no action was necessary.

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MINUTES

On **MOTION** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Perkins "aye"; no "nays"; no "abstentions"; Cooper, Turnbo "absent") to **APPROVE** the Minutes of July 8, 2003 (No. 868).

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UNFINISHED BUSINESS

Case No. 19593

Action Requested:

Special Exception for a "Tunnel" type, enclosed car wash in a CS district per plan. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located 1440 E. 71st St.

Presentation:

John Moody, 1924 S. Utica, stated he represented Burlingame Investments. They have been negotiating with the new tenant and interested parties in opposition. He submitted a site plan (Exhibit A-1) with changes as a result of those discussions. He reminded the Board the parcel is 80' x 255' on the south side of East 71st Street. To the west is a shopping center and medical offices. To the east is a storage and warehouse. It is an old non-conforming lot that was used for a nursery. The tract is difficult to develop in a conventional way. He submitted photographs of the property (Exhibit A-2) to point out the details and surroundings. His client proposed to build a tunnel style car wash with two bays. The vacuums would be located on the northern end. He submitted the elevations (Exhibit A-3). He pointed out plans for a six-foot wood fence for screening on the south boundary. They did not see the need for screening next to the mini-storage and pointed out there is an existing screening fence on the west boundary of the property. Mr. Moody stated they would be willing to build with the same setback as the building to the west, if the Board made that condition.

Tom Cooper arrived at 1:14 p.m.

Interested Parties:

Paul Prather, 525 S. Main, Ste. 1000, stated he represented Quincy Street Partnership in opposition to the application. He pointed out it is a non-conforming lot. The location is too close to the point of entry/exists of existing businesses. He also noted that the vacuums would be open 24 hours, seven days per week. He stated concern for a twenty-four hour service that could be used for staging criminal activity near storage and offices. He mentioned a car wash at 68th Street indicating there are plenty of car washes in and near the area. Mr. Prather stated if the Board was inclined to approve the application, his client would ask they condition it with a 71' setback. He suggested the neon lights, as shown in the site plan, would be inappropriate in this area. They would also ask for a condition on the hours of operation. He expressed concern that the facility might be increase from two bays to multiple bays. His client indicated the signage may exceed the code as it is shown on the plan. They consider a car wash to be an inappropriate use in this area.

Comments and Questions:

Mr. White asked Mr. Prather for the hours of operation on the shopping center. Mr. Prather pointed out it is really an office complex with a restaurant, which stays

open until nine or ten. The attorney offices have normal business hours. Mr. White asked if security is provided. Mr. Prather replied there is drive-by security and he did not know the frequency.

Applicant's Rebuttal:

Mr. Moody used the photographs to show the Board there is a solid brick wall on the east side without openings except for one door, it is more of a utility runway. He pointed out that the mini-storage uses a lot of signage. There is a brick wall to the storage units with steel doors. No one would be at the offices or storage at night to disturb. The QT is open 24 hours per day, and Blockbusters stays open until midnight. There is an employee on the site at peak hours. He pointed out the nearby McDonald's has a large lighted arches sign, and is open long hours. The signage on the site plan is conceptual at this point. The lights are a soft, white light that would be subtle and is recessed under the roofline.

Discussion ensued.

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** for a "Tunnel" type, enclosed car wash in a CS district, with conditions for a setback of 71.5' in line with the shopping center to the west, on the following described property:

The N 290.00' of the W 44.30' of Lot 1 and the N 290.00' of the E 35.70' of Lot 2, Valley Bend Subdivision, City of Tulsa, Tulsa County, State of Oklahoma, less and except a parcel of land lying in the W 44.30' of Lot 1, and the E 35.70' of Lot 2, of Valley Bend Subdivision, more particularly described as follows, to-wit: the N 35.00' thereof.

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.

Mr. White abstained from Case No. 19622.

Presentation:

Mike Marrara, 9936 E. 55th Pl., stated the request for variances were for a lot split pending. His client is selling the southernmost portion of their property with the

intention to attach it with a tie agreement to the panhandle that runs east to Lewis. This brings the lot width to 189' but it is still short of the required 200'. The existing barn is used for a nursery to grow trees for a landscaping business. There is no commercial or retail business conducted there. It would be used for equipment storage. There is no intention to create a retail business there.

Comments and Questions:

Mr. Dunham asked about the use of the property extending to Lewis Ave. Mr. Marrara responded it will be an extension of the nursery use. The north portion will remain the place of residence. Mr. Dunham asked about the RS zoning with nursery use. Mr. Beach stated there is a small portion near Lewis zoned RS-3 but the balance is zoned AG. The nursery use is on the AG. After discussion of use of the barn Mr. Beach and the Board agreed the third variance could be stricken. Mr. Cooper asked for the hardship on the side yard setback. Mr. Marrara explained there is an existing fence line and the client requested to set the boundary in line with it.

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, Perkins, Cooper "aye"; no "nays"; White "abstained"; Turnbo "absent") to **APPROVE** a **Variance** of average lot width from 200' to 189', finding because of the tie agreement it is an existing condition; and a **Variance** of side yard setback from 5' to 1', finding it maintains the existing condition, on 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' W 100.00' thereof; AND a tract of land in the E/2 NE/4 NW/4 NE/4 of Section 18, T-20-N, R-13-E of the IBM, being more particularly described as follows: Commencing at the NE/c of E/2 NE/4 NW/4 NE/4; thence S 0°08'38" E a distance of 278.06' to the POB; thence continuing S 0°08'38" E a distance of 382.53'; thence S 89°19'52" W a distance of 329.87'; thence N 0°08'47" E a distance of 382.46'; thence N 89°19'10" E a distance of 329.89' to the POB; City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 19628

Action Requested:

Special Exception to allow an accessory use (swimming pool) on a lot other than the lot where the principal use is located. SECTION 1608.A. SPECIAL EXCEPTION, General – Use Unit 6, located 627 & 629 N. Cheyenne Ave.

a tract 62.5' x 149'. The car wash would be on the lot to the north. They need the special exception for any ancillary use on the small tract.

Comments and Questions:

Mr. Dunham asked for clarification of the need for a lot split. Mr. White explained they came to the Board because of the difference in CH and CS zoning on the two lots.

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow Use Unit 17 (car wash) in a CS zoned district, on condition of a tie agreement to the CH lot to the north; and to **CONTINUE** for relief of the screening requirement to the meeting on August 26, 2003, on the following described property:

The W 149.50' of Block X, Riverview Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19633

Action Requested:

Special Exception to allow church and accessory uses (Use Unit 5). SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; and a Variance of the required 1 acre for church to 0.6± acre. SECTION 1205.B. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES, Included Uses, located 2037 N. Utica.

Presentation:

Rev. James. L. Brewer, Sr., 2101 E. 32nd St. N., stated he is the pastor of Greater Mount Carmel Baptist Church. They propose to add on to the existing structure to keep up with the growth of the church. There is an elementary school, recreational center, and an apartment complex on the surrounding properties.

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allow church and accessory uses (Use Unit 5); and a **Variance** of the required 1 acre for church to 0.6± acre, 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:

Lots 2, 3, and 4, Block 4, Bullet Heights 2nd, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19634

Action Requested:

Variance of required number of parking spaces for Home Depot from 595 to 478. SECTION 1214.D. USE UNIT 14. SHOPPING GOODS AND SERVICES, Off-Street Parking and Loading Requirements – Use Unit 14, located N of NW/c E. 91st St. & S. Delaware.

Presentation:

Roy D. Johnsen, 201 W. 5th, Ste. 501, stated he represented Home Depot, regarding a store being constructed currently. The neighborhood filed a law suit questioning the zoning of the property. They met with the homeowner's association and agreed to a temporary widening of Delaware. Home Depot agreed to provide a 30' landscaped area with a three-foot berm along Delaware Ave if the Board would approve a reduction of the parking requirement. Mr. Johnsen explained the differences in the parking requirements for the store, the garden center (not under roof), and the outside storage area. A site plan was provided (Exhibit D-1).

Interested Parties:

Pat Grubbs, 2818 E. 88th St., President of the Cedar Crest and Cedar Crest II Homeowner's Association, stated he represented both in support of the application. They consider this a tremendous benefit to the neighborhoods.

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 required number of parking spaces for Home Depot from 595 to 547 spaces, 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 that is part of Lot 1, Block 1, Delaware Square, City of Tulsa, Tulsa County, State of Oklahoma, said tract being more particularly described as follows: Beg. at a found rebar at the NE/c of said Lot 1; thence S 00°24'00" W, along the Ely line of Lot 1, 280.93' (formerly 280.65') to a found 3/8" rebar; thence S 89°49'51" W (formerly S 89°36'40" W), 20.00' to a found 3/8" rebar; thence S 00°24'00" W, and parallel with the Ely line of Lot 1, 966.17' (formerly 966.30') to a found 3/8" rebar; thence S 45°04'23" W (formerly S 45°00'00" W), 33.75' to a found 3/8" rebar on the Sly line of Lot 1; thence S 89°57'22" W

of the thirty-foot access, as it will be tied to the remainder of the tract, on the following described property:

A tract of land that is part of the SW/4 SE/4 of Section 3, T-18-N, R-13-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, said tract of land being described as follows: Commencing at the SW/c of said SW/4 SE/4; thence N 01°28'35" W along the Wly line of said SW/4 SE/4 for 60.00' to a point on the Nly right-of-way line of E. 71st St., said point also being the POB of said tract of land; thence continuing N 01°28'35" W along said Wly line for 1,166.73' to a point on a Sly line of Lot 1, Block 1, Montereau in Warren Woods; thence N 85°05'55" E along said Sly line for 53.93'; thence S 31°50'13" E along a SWly line of said Lot 1, Block 1 for 545.57' to a point on the Wly line of The Argyle; thence S 88°37'16" W for 299.58'; thence S 01°28'35" E parallel to said Wly line of the SW/4 SE/4 for 699.81' to a point on said Nly right-of-way line of E. 71st St.; thence S 88°42'46" W along said Nly right-of-way line for 30.00' to the POB of said tract of land.

Case No. 19636

Action Requested:

Special Exception to allow church expansion project on principal church property site. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Variance to allow proposed sanctuary height of 55' on principal church property site. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts; a Special Exception to allow church parking lot and detention facility on off-site church property. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS; a Special Exception to allow off-street parking spaces on a lot other than the lot containing the principle use. SECTION 1301.D. GENERAL REQUIREMENTS; and a Special Exception to waive screening fence requirement along the east, west and south property lines of the accessory use parking and detention area tract. SECTION 1303.E. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS, located 2135 W. 51st St.

Presentation:

Darin Akerman, 6111 E. 32nd Pl., stated the requests, indicating this is Phase III of the building plan. He added there would be more than adequate parking with the modification of the plan.

Michael Atkinson, 1444 E. 138th Pl., Glenpool, Oklahoma, commented that the neighbor to the west did not want a screening fence put up.

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 allow church expansion project on principal church property site; a

Variance to allow proposed sanctuary height of 55' on principal church property site, finding the distance is sufficient and would not have a negative impact on the neighborhood, the average height would be considerably less than the highest point; a **Special Exception** to allow church parking lot and detention facility on off-site church property; a **Special Exception** to allow off-street parking spaces on a lot other than the lot containing the principle use; and a **Special Exception** to waive screening fence requirement along the east, west and south property lines of the accessory use parking and detention area tract, per plan, 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:

Lot 1, Block 1, Carbondale Assembly of God Church, City of Tulsa, Tulsa County, Oklahoma; AND A tract of land that is a part of the (N/2 NE/4) of Section 34, T-19-N, R-12-E of the IBM, Tulsa County, State of Oklahoma, said tract of land being described as follows: Commencing at the NW/c of said N/2 NE/4; thence S 89°55'05" E along the Nly line of said N/2 NE/4 for 1100.00' to the POB of said tract of land; thence continuing S 89°55'05" E along said Nly line for 570.45'; thence S 0°04'55" W for 50.00'; thence S 89°55'05" E and parallel with said NLY line for 265.00'; thence S 0°04'24" W for 90.00'; thence S 40°52'43" W for 92.42'; thence S 89°22'43" W for 408.14'; thence S 86°42'43" W for 367.19'; thence N 0°01'10" W and parallel with the Wly said line of N/2 NE/4 for 236.56' to the POB of said tract of land.

Case No. 19637

Action Requested:

Variance to reduce the west and north building setback to 5'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Special Exception to waive the screening fence required along the north, east, and west property line and allow the exterior face of building to serve as the screening fence. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS – Use Unit 16, located Easton St. between Sheridan & Memorial.

Presentation:

Jerry Ledford, Jr., 8209 E. 63rd Pl., Tulsa Engineering and Planning, asked that the eight-foot walls on the north, west and east sides to be permitted as the required screening fence.

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, Perkins, Cooper "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** to

reduce the west and north building setback to 5', finding it is adequate considering the adjacent uses; and a **Special Exception** to waive the screening fence required along the north, east, and west property line and allow the exterior face of building to serve as the 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, per plan, on the following described property:

The W 176.75' of Lots 14 and 15, Block 1, less and except the S 25.00', Bloomfield Heights, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19638

Action Requested:

Minor Variance of required rear yard from 25' to 21'. 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 9320 S. Jamestown

Presentation:

Jeffrey Levinson, 35 E. 18th St., pointed out the irregular shape of this corner lot. They are asking for a variance of four feet for the overhang of the unenclosed patio.

Comments and Questions:

Mr. Cooper asked for the elevation of the patio. Mr. Levinson did not have copies of the elevations but submitted the site plan (Exhibit H-1).

Interested Parties:

Neil Tomlins, 9418 S. Jamestown, submitted a petition of neighbor's signatures in opposition to this application. He stated he represented the Tanglewood Homeowner's Association. He described the Tanglewood Subdivision as a special area with a greenbelt that is professionally landscaped and has a sprinkler system. The complaint is that this variance would obstruct the view of the greenbelt area. He pointed out that the greenbelt curves around the subject property to the corner, rather than the subject property actually being on the corner. He stated that the hardship is self-imposed.

Applicant's Rebuttal:

Mr. Levinson stated the applicant would accept if the Board limited the variance per site plan. Mr. Cooper asked how the hardship is not self-imposed. Mr. Levinson responded it is the curvature of the lot and that it is essentially a corner lot.

Board discussion ensued.

