

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 871
Tuesday, August 26, 2003, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Stephens
Perkins
White, Chair

**MEMBERS
ABSENT**

Turnbo

**STAFF
PRESENT**

Stump
Butler

**OTHERS
PRESENT**

Romig, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, August 22, 2003, at 9:13 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. Jay Stump read the rules and procedures for the Board of Adjustment Public Hearing.

Mr. Dunham arrived at 1:05 p.m.

MINUTES

On **MOTION** of Stephens, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** the Minutes of August 12, 2003 (No. 870).

UNFINISHED BUSINESS

Case No. 19630

Action Requested:

Variance to allow a two-story accessory building 30'6" high in required rear yard. SECTION 210.B.5.a. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; and Variance of the 20% required rear yard coverage to 26.6%. SECTION 210.B.5.a. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, located 2138 E. 30th Pl. S.

Presentation:

The applicant, **Jeff Brand**, was not present.

Interested Parties:

Steve Lake, 2130 E. 30th Pl., stated he was in opposition to the application.

Board Action:

Mr. White moved the case until later on the agenda.

Case No. 19632

Action Requested:

Special Exception to waive the screening requirement. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located S of SE/c W. 23rd St. & S. Maybelle.

Presentation:

Pat Garner, 111 N. Main, Sand Springs, Oklahoma, stated they want to move the screening about twelve feet onto their lot. A site plan was provided (Exhibit A-1).

Comments and Questions:

Mr. White stated the Board had already approved the base application. They needed this additional relief.

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, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to allowed the screening fence to be moved, 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:

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

Case No. 19645

Action Requested:

Variance of the required setback from rear (east side) to 10'0" for new addition. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 1303 S. Delaware Pl.

Presentation:

Jody Cole, 2915 W. 61st Pl., stated he represented Tom Stone, the owner of the subject property. The existing lot is non-conforming with a 50' x 140' structure. They propose to build a garage and master suite addition that would encroach on the 20' rear yard setback. A site plan was provided (Exhibit B-1).

Comments and Questions:

Mr. White noted it would be two-story.

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, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required setback from rear (east side) to 10'0" for new addition, per plan, finding the hardship to be it is a non-conforming lot; it would be difficult to make an addition to this property; 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:

Lots 47 & 48, Block 3, Rosemont Heights Subdivision, City of Tulsa, Tulsa County, State of Oklahoma.

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NEW APPLICATIONS

Case No. 19654

Action Requested:

Variance of lot width from the required 60' to 53.82' to permit a Lot- split #19573 in an RS-3 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, – Use Unit 6, located 1612 S. Atlanta Ave.

Presentation:

Dane Lydle, 2651 E. 51st St. Ste. 100, stated he represented the applicant. They proposed to meet the adjacent lot split easements required per the plans he submitted. It will allow for the five-foot easements on either side of the existing home and the setbacks on the front of the existing home and any new construction.

Interested Parties:

Susan Hagar, 1612 S. Atlanta Ave., stated she is the owner of the subject property. She was in support of the application.

Robert Bazhaw, 1710 S. Atlanta Ave., stated he represented twenty neighbors who signed a petition in opposition. They are concerned about how more

construction will affect storm water drainage. He submitted the petition and photographs (Exhibit C-1 and C-2).

Comments and Questions:

Mr. Dunham responded that this Board was not ignoring the issue, but they could not consider the issues of storm water drainage regarding the case. The Storm Water Management Department is responsible for review of those issues. The applicant would need approval from them. Mr. Bazhaw indicated that department has been ignoring the problem. He also had a complaint over the style of new construction in the area. Mr. White informed him that the Board has no jurisdiction over the style. Ms. Perkins asked if they have talked with the builder to see the plans. Mr. Bazhaw replied he had not.

Board Action:

Mr. White offered to give the applicant and interested parties time to discuss the applicant's plans. He tabled the case until later on the agenda.

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Case No. 19655

Action Requested:

Variance of required setback from centerline of 43rd Street from 45' to 40'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of rear yard from 20' to 19'7". SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 4301 S. Madison Pl.

Presentation:

James B. Allen, Jr., 4301 S. Madison Pl., stated he requested this relief because of a sewer line and a tree that restrict the space they have to build.

Greg Montgomery, 1411 S. Wheeling, stated he is helping the applicant with the construction. The man that poured the concrete told the applicant he did not need a permit to pour the concrete. The concrete is seven inches too close to the rear fence line. A site plan was provided (Exhibit D-1).

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, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of required setback from centerline of 43rd Street from 45' to 40'; and a **Variance** of rear yard from 20' to 19'7", per plan, finding they are not building any closer to 43rd St. than the existing home, and cannot move it any further in the rear yard because of the sewer line and the tree, finding it will not cause substantial detriment to the

403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 102 S. College.

Presentation:

Stanley Barnett, 3803 S. 28th E. Ave., stated he purchased the property in 1997 through HUD. At the time of purchase they did not know that permits were never obtained for two dwellings on one lot of record for this property. He stated he is in agreement with the zoning code and wants to bring the property into compliance. He submitted photographs (Exhibit E-1).

Comments and Questions:

Mr. Dunham noticed the garage was converted to an additional dwelling unit. Mr. Barnett replied that was done before he purchased it. He added that they cleaned it up. Mr. Dunham stated when the garage was converted the first time it was in violation of the code. Mr. White asked if the variances were all for the existing structure and nothing proposed. Mr. Barnett agreed.

Interested Parties:

Art Barber, 103 S. College, stated the applicant fixed the house up nice. The applicant told him that he and his wife were going to retire and live there and the garage would be used as a game room. The sewer is not to code. He indicated the garage is too small for more than one person. At the time of the application there were ten adults and three children living in the garage. He stated that cars park on shale rock between the house and garage. He has observed guests at the house urinating at a tree next to the garage.

Maria Barnes, 2252 E. 7th St., stated the Kendall-Whittier Neighborhood Association is opposed to the application. They desire only single-family dwellings in the neighborhood.

Captola Thomas, for Alice Wiser, 139 S. College, stated opposition to the application for a lot split or multi-family use on this lot.

Lois Barnett, 3803 S. 28th W. Ave., stated she is co-owner with Stanley Barnett of the subject property. They have not retired yet. They were not aware the tenants were disturbing the neighbors. In the past they would pick up the rent after the renter called and the place was always clean. After they received the notice of complaints they went unannounced and were surprised to see trash and a lot of people in the yard. She added they gave them notice of possible eviction because of the problems. They wanted to be good neighbors, keep their property up, and clear up any problems there.

Comments and Questions:

Mr. Stevens asked the size of the garage apartment. She replied that it is 24' x 24', including one bedroom, one kitchen, one bath and a living room.

Mr. Stump informed the Board that staff comments stated they do not need to comply with the land area per dwelling unit, and that was incorrect. The second dwelling unit would require the need to comply.

Bill Kirk, 3166 E. 1st St., stated he represented the Kendall Neighborhood Association. They are opposed to the application. They support single-family dwellings in the neighborhood and discourage smaller lots.

Applicant's Rebuttal:

Mr. Barnett declined to offer rebuttal.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** all the requested variances, finding lack of a hardship; and 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:

Lot 6, Block 6, University Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19630

Action Requested:

Variance to allow a two-story accessory building 30'6" high in required rear yard. SECTION 210.B.5.a. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; and a Variance of the 20% required rear yard coverage to 26.6%. SECTION 210.B.5.a. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, located 2138 E. 30th Pl. S.

Interested Parties:

Mr. Lake stated that he has been to the Board twice. The first time it was continued and today the applicant did not show up. He asked that the Board deny without prejudice.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **DENY** the request **without prejudice**, on the following described property:

All of Lot 3 and part of Lot 4, Beg. NE/c; thence W 20.00' Sly to SL E 15.00' Nly 165.81', Block 19, Forest Hills Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Lot 11, Block 10, East Lawn Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19657

Action Requested:

Variance of the required parking spaces from 9 to 0. SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, Off-Street Parking and Loading Requirements, located 5522 S. Lewis.

Presentation:

William Campbell, 9951 E. 79th E. Ave., stated at the time he made application he requested a variance of eight parking spaces, and INCOG was under the impression there were two available spaces for his use. Since then they discovered the spaces were not available, and that he really required nine spaces.

Comments and Questions:

Mr. Stump explained the history on this case to the Board. The parking is in common areas and available to everyone. It has proved to have adequate parking.

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, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required parking spaces from 9 to 0, with condition that the building and use not require more than nine parking spaces, finding this is part of a PUD and there are ample parking spaces, on the following described property:

Lot 5, Block 1, Pecan Tree Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19658

Action Requested:

Variance to allow two dwelling units per lot of record. SECTION 205. NUMBER OF DWELLING UNITS ON A LOT – Use Unit 6; a Variance of the required land area per dwelling unit. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of livability space. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of rear yard from 20' to 4'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of front yard from 25' to 22'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of side yard from 5' to 3'. SECTION

Case No. 19659

Action Requested:

Approval of an amended detail site and exterior fencing plan; approval of the stadium detail site plan, court seating; and approval of an amended detail landscape plan, located Delaware to Columbia, E. 10th St. to E. 6th St.

Presentation:

Charles E. Norman, 2900 Mid-Continent Tower, stated he represented the University of Tulsa. The university has been selected as the site of the 2004 National NCAA Tennis Tournament. Benefactors have given funds to add permanent stadium court seating around the four stadium courts, and outside concession, ticket and restroom facility. An amended site plan was provided (Exhibit F-1, F-2). Landscaping will be installed around the new concession facility. There is still ample parking available for these events and facilities.

Interested Parties:

Maria Barnes, 2252 E. 7th St., stated she represented the Kendall-Whittier Neighborhood Association. She asked them to remember to respect the church on College regarding the hours of their services and to work with them for these events.

Applicant's Rebuttal:

Mr. Norman stated the agreements with the church that they would notify T.U. if there was to be a weekday funeral service, and the school would not use any outdoor speaker systems. There was a prohibition of any event between 10:00 a.m. and 12:00 p.m. on Sundays. He did not anticipate any problems from the new facility.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** an amended detail site and exterior fencing plan; approval of the stadium detail site plan, court seating; and approval of an amended detail landscape plan, submitted today, on the following described property:

Lot 1, Block 1, University of Tulsa Blocks 1, 2 and 3, a Resubdivision of all of Blocks 14, 15 and 16 of Highlands Addition and part of Block 5 of Highlands 2nd Addition and all of Blocks 6, 7, 8 and 9 of Highlands 2nd Addition and part of Block 2 of College Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19654

Action Requested:

Variance of lot width from the required 60' to 53.82' to permit a Lot-split #19573 in an RS-3 district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located: 1612 S. Atlanta Ave.

Interested Parties:

Robert Bazhaw, 1710 S. Atlanta Ave., stated the coalition of opposition would be willing to accept the variance with condition that the builder would attempt to direct the drainage to the north and northwest of them.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of lot width from the required 60' to 53.82' to permit a Lot-split #19573 in an RS-3 district, finding the hardship to be the lot is considerably larger than the average lot and the two lots to be created would be in conformity with the neighborhood, with a recommendation that the builder of the new house on the vacant lot attempt to direct the drainage from this property to the north and northwest, and would like for a copy of this recommendation to be sent to Storm Water Management, regarding the following described property:

Prt. Lot 11, Beg. 106.15' S NE/c; thence S 113.85' W 150.00' N 113.60' E 150.00' POB less E 20', Glen Acres, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19660

Action Requested:

Special Exception to permit an office in an RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11, located 240 W. 15th St.

Presentation:

Thomas Regan, 1645 S. Elwood Ave., stated he is raising his family within 1½ blocks of the subject property. He has increased the value of his property considerably and raised the property tax 100%. He pointed out the surrounding properties used for commercial. Currently there is a law office and bail bond office on the subject property.

Interested Parties:

Scott Holz, 1502 S. Carson Ave., submitted photographs and various documents (Exhibits G-1 and G-2) to support his position. He indicated that in the last four years there have been several different people using it for their primary residence. They have done a lot of work on the property but the last building permit was in 1997. He stated there are four separate bail bond offices running there. They placed a sign in front without a permit. Traffic is not during normal business hours but seven days per week. They just poured a concrete slab for parking without any permits. The customers are often angry, inconsiderate, and loud. They sometimes park in his driveway or at the neighboring attorney's office. He expressed concern for the safety of his children. He called the Board's attention to a letter from Tracy Horner-Shears.

Cheryl Holz, 1502 S. Carson Ave., stated she spoke with the two businesses west of the subject property. Mr. Herman Raos gave her permission to tell the Board he witnessed people cleaning out the garage on the subject property and they threw trash and two couches onto the property of Steve and Scott Helm. She talked with Mr. Steve Helm and he told her that he had to pay someone to haul the trash and furniture away. He also stated no one asked permission to use his parking but the bail bonds people use it. She expressed concern for her children's safety because of the customers of the bail bonds businesses.

Applicant's Rebuttal:

Mr. Regan indicated the neighbors could have tried to work these things out a long time ago. He lives close by and checks on the property. He submitted some photographs (Exhibit G-3). Ms. Perkins asked how long the bail bonds have been run in this house, to which he replied about six months. He added there was one bail bonds business there almost two years ago. There have been two attempts to use the property as residential but it was a problem for the tenants because of all the traffic for commercial use around it. He stated it was his understanding that the parking problem with the attorney's office was cleared up a long time ago. He informed the Board he has invested a lot in the property, and takes care of it. He expressed his interest in the neighborhood and does what he thinks is best for it. Mr. Regan indicated that he hired a contractor for his parking lot to make sure the water drainage would flow properly.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit an office in an RM-2 district, with the following conditions: the days and hours of operation be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturdays; and that bail bond business not be permitted on this property described as:

Lot 6, Block 3, Stonebraker Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19661

Action Requested:

Special Exception to allow Use Unit 16, mini-storage, in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16, located 3184 S. Mingo.

Presentation:

John Christ, 3184 S. Mingo, proposed to improve the property; build a mini-storage with similar exterior to the existing structure; and plant trees to enhance the park-like appearance like the property across the street. There would be no

