

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 880
Tuesday, January 27, 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 Friday, January 23, 2004, at 10:19 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.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19739

Action Requested:

Variance to permit an existing accessory storage building in order to split the lot for a new residence. SECTION 402.B. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6, located: 11450 S. Winston Ave.

Presentation:

Mr. Beach informed the Board this case has been withdrawn.

Board Action:

No Board Action was required.

Case No.19749

Action Requested:

Special Exception to allow a duplex in a CS zoned district; a Variance of required 25.00' setback for parking (west side) to 10.00'; and an amended site plan previously approved by BOA 19510, located: 513 – 515 West Newton, and 1003 – 1011 West Newton.

Presentation:

Mr. Beach informed the Board this case needed to be continued to February 10, 2004. The applicant applied for more relief, which was added to a new notice.

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. 19749 to the meeting on February 10, 2004.

MINUTES

On **MOTION of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of January 13, 2003 (No. 879).

UNFINISHED BUSINESS

Case No. 19727

Action Requested:

Special Exception to allow Use Unit 15 (portable buildings/storage sheds) in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located: 11212 E. Admiral Pl.

Presentation:

Wade Leggett, 11212 E. Admiral Pl., submitted a site plan (Exhibit A-1). They proposed to place new storage buildings for sale on the subject property. They are steel, insulated buildings. He submitted photographs (Exhibit A-4). He has talked with the neighborhood association, and cleaned the site. They want to build a privacy fence in the place of a chain link fence on the east of the office to store the steps they sell with the buildings.

Comments and Questions:

Mr. Dunham questioned if they needed more advertising for the outside storage of the steps. Mr. Beach was not sure of the distance between the storage area and the RS-3 district. Ms. Turnbo pointed out that the storage buildings would be

stored outside. Mr. Leggett also proposed to build a short steel pipe fence around the property to prevent trucks from parking on their property. Mr. Dunham suggested to the applicant that he needs to measure the distance from the area he wants to fence for storage of the steps to RS-3 district, as he would need to apply for further relief. Mr. Boulden stated that the Use Unit 15 would not restrict the distance of the outside storage. Mr. Beach added that the RS-3 district was on the other side of an arterial street so there are no screening requirements. A letter of support from the City Council Art Justis was provided. (Exhibit A-2).

Interested Parties:

Wayne Bohanon, 10617 E. 1st St., stated he is the President of the Wagon Wheel Neighborhood Association. He met with the owners of the business and found the plans to be good for the neighborhood. The association supports the application.

Nancy Creighton, 245 S. 120th E. Ave., stated she is the President of the Western Village Neighborhood Association. At the beginning they were against this case. Since then they have met with the applicant and seen what he proposes to do and do not feel the intent of the Code will suffer. She provided a list of conditions (Exhibit A-3) that they would like to be added to the approval.

James Mautino, 14628 E. 12th St., stated he agreed with what the homeowner's associations have worked out. He asked how the other business patrons would access the other businesses from Garnett if the applicant fences the parking lot. Ms. Perkins asked if the owner has to give right of access to other businesses. Mr. Boulden replied he does not have to provide access to other properties.

Brett Leggett, 11212 E. Admiral Pl., pointed out there are two entrances to the car wash and shopping center. There is no mutual access agreement.

Wade Leggett stated he was agreeable to the conditions suggested by the neighborhood association.

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 allow Use Unit 15 (portable buildings/storage sheds) in a CS zoned district, with the conditions suggested by the neighborhood association: no outside storage of materials or merchandise can be visible from the street except the portable buildings (no more than 15). These are to be placed far enough back from the street so that visibility is not obstructed for traffic flow; other items, such as steps and dog houses located outside must be placed inside a solid privacy fence to be located on their parking lot where a chain link fence is now to replace the chain link fence; and no banners, balloons or flags are to be used, 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:

N 427.00' E 368.40' Government Lot 8 less N 75.00' & E 50.00', S 352.00' N 427.00' for street, Section 6, T-19-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19736

Action Requested:

Variance of the required parking spaces for restaurant from 30 to 15 spaces. SECTION 1212. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS – Use Unit 12, located: 3312 S. Peoria.

Presentation:

Mr. Beach reminded the Board this case was continued for the applicant to provide a survey to show the actual parking spaces available.

Larry Harrell, 3127 S. Rockford, asked for a two-week continuance. The applicants just recently requested his help with this case. He needed more time to prepare the items requested by the Board.

Comments and Questions:

Mr. Dunham asked that they provide Mr. Beach with the parking plan in advance of the next meeting so he can review it ahead of time. Mr. White noted there are eight striped spaces. He asked if there is a legal access to that lot from the shopping center to the north. Mr. Dunham informed Mr. Harrell of the request for a letter of agreement to share parking from the coffee company.

Interested Parties:

Richard Holmes, 5918 E. 31st, stated he is the attorney for P.S. Partners, owned by Jim Pinkerton. The laundromat owner signed a letter of opposition, stating they share the parking with the coffee company; and they are open during the hours the restaurant would be open.

Ms. Turnbo repeated her request from the last hearing for a list of the other businesses sharing the parking lot; their hours of operation; the number of parking spaces they have; and their agreement to give up their parking spaces during the hours the restaurant is open.

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. 19736 to the meeting on February 10, 2004, on the following described property:

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 operate an Adult Day Care Facility in an AG zoned district; and a **Special Exception** to allow a residential care facility (8 – 12 bed) in an AG zoned district, per plan, with conditions to comply with all state and federal regulations, 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, Higher Dimensions, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19741

Action Requested:

Appeal of the decision of TMAPC on 12/3/03 to deny alternative compliance landscape plans, located: 6435 South Peoria.

Presentation:

Benjamin F. Samuels, 5350 E. 46th St., stated he is an architect with Architectural Plus. He provided a more simplified site plan to the Board (C-1) to show more clearly his alternatives to landscaping. He informed the Board that all of the landscaping spaces are within 100' of a hose bib. He felt that the trees would need more water than an irrigation system could handle. He added that all of this was put in place with the request of the City before they could get approved. After they obtained approval they applied for the building occupancy permit and were told they had to have an irrigation system. All the curbs, blacktop and everything were completed. He submitted photographs (Exhibit C-2) to show the Board.

Comments and Questions:

Mr. White referred to the staff comments to remind Mr. Samuels of the staff recommendations. INCOG recommended that hose attachments be permitted for the northernmost landscaped area and the three small areas adjacent to the building and that an underground system be installed in the narrow area continuing eight trees along the south property line.

Interested Parties:

Stacy Clark, 16 E. 26th Pl., stated he owns property at 1415 E. 64th St. He expressed concern regarding extreme flooding in this area to the point that residents cannot get in and out of the neighborhood. The Baptist Church on the corner has experienced flooding in their parking lot. He stated the applicant should comply with the Code and prevent erosion on the north side, which is his concern.

Applicant's Rebuttal:

Mr. Samuels informed the Board the owner has invested a lot to put in a storm sewer system there for the first time. They put in a fire hydrant and a sanitary sewer for the first time in that area.

Interested Party:

Roberta Clark, 16 E. 26th Pl., agreed that the improvements had been made but the property was built up four feet higher than it was originally. She added there are fifteen storage units in the immediate area. She stated they should abide by the zoning code to prevent additional problems.

Board Action:

On **Motion of Dunham**, the Board voted 3-2-0 (White, Dunham, Stephens "aye"; Turnbo, Perkins "nay"; no "abstentions"; no "absences") to **GRANT** the **Appeal** of the decision of TMAPC on 12/3/03 to deny alternative compliance landscape plans, finding there is an attendant on duty that could keep the small area watered, and that the owner is obligated to replace any trees that die in order to continue to meet the landscape requirements, on the following described property:

Lot 1, Block 1, Huang Mini Storage Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19743

Action Requested:

Variance of required side yard from 5' to 2'-3" for garage addition. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 2229 South Rockford Avenue.

Presentation:

Kevin Mudd, 2229 S. Rockford, stated his request. The hardship would be the small size of the lot. He indicated it would increase the value of the property, and improve the neighborhood.

Interested Parties:

Janie Reese, 2235 S. Rockford, stated her house has been in her family for over 50 years. She stated opposition to the application to preserve the architectural integrity of the neighborhood.

Comments and Questions:

Ms. Turnbo responded that there is not a Historic Preservation Zoning for this neighborhood therefore the Board does not have authority to preserve the architecture.

Applicant's Rebuttal:

Mr. Mudd stated there has never been a garage in the back. He stated that the other houses have garages and he has the only house without a garage. He would be willing to put in gutters to prevent water from draining onto the neighbor's property.

Board Action:

On **Motion of Dunham**, the Board voted 4-1-0 (White, Dunham, Turnbo, Perkins "aye"; Stephens "nay"; no "abstentions"; no "absences") to **APPROVE a Variance** of required side yard from 5' to 4' for garage addition, finding the small size of the lot and an existing house, on the following described property:

N 55.00' of Lot 4, Block 3, Terwilleger Heights, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19744

Action Requested:

Variance of average lot width from 50' to 44' to permit Lot-Split # 19647, located: 228 East Seminole Place North.

Presentation:

Hurst Swiggart, 111 S. Greenwood, stated he represented the Tulsa Development Authority. They are selling an 80' lot to an individual to build a new home. There is a driveway used in common with the neighbor. They propose to quit claim four feet of the driveway to the neighbor on the east so TDA can sell their lot. A site plan, a second plan and a survey were provided (Exhibits D-1, D-2 and D-3).

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 average lot width from 50' to 44' to permit Lot-Split # 19647, per plan, finding the existing lot was 40' and the addition will improve the 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 8 and 9, Block 11, Meadowbrook, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19745

Action Requested:

Special Exception to permit temporary outdoor sales for a period of 5 years. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2, located: 3948 South Peoria.

Presentation:

Kelly Jones, 8998 S. Sheridan, stated the subject property is a seasonal location where they erect a tent for sales of seasonal bedding plants. They desire to continue this for the next five years. They want the full 179 days. They sell herbs, perennials, vegetable plants, ornamental pumpkins, gourds and corn, and straw bales. A list of the days and hours of operation were submitted (Exhibit H-1).

Interested Parties:

Nancy Apgar, 3914 S. Norfolk, stated she represented the Brookside Neighborhood Association. The applicants have been at this location for the last two years. They did not have any objections but request the tent not be left up between seasons of use.

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 temporary outdoor sales for a period of 5 years, per the days/hours specified in the application: spring: March 15, through June 30, Monday – Saturday 9:00 a.m. to 8:00 p.m. Sunday 10:00 a.m. to 6:00 p.m.; and fall: September 15 through November 25, Monday – Saturday 9:00 a.m. to 7:00 p.m., Sunday 10:00 a.m. to 6:00 p.m., with condition the tent be removed between the fall and spring seasons of use.

On **Amended 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 temporary outdoor sales for a period of 5 years, per the days/hours specified by the application: spring: March 15, through June 30, Monday – Saturday 9:00 a.m. to 8:00 p.m. Sunday 10:00 a.m. to 6:00 p.m.; and fall: September 15 through November 25, Monday – Saturday 9:00 a.m. to 7:00 p.m., Sunday 10:00 a.m. to 6:00 p.m. for the sale of plants and plant related items, with condition the tent be removed between the fall and spring seasons of use, 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:

E 392.5' Lot 4, Brockman's Subdivision of SE/4 SE/4, Section 24, T-19-N, R-12-E, less E 10.00' thereof, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19746

Action Requested:

Special Exception to permit tent sales for a period of 5 years, located: 1530 South Lewis.

Presentation:

Kelly Jones, 8998 S. Sheridan, stated this is an identical application but located on the southwest corner of 15th and Lewis. This is also for plants and related items under a tent, with the same days and hours of operation. The tent is put up for the spring season, and would be removed until the fall season. A list of days and hours of operation was submitted (Exhibit I-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 permit tent sales for a period of 5 years, per the days/hours of operation listed in the application: spring: March 15, through June 30, Monday – Saturday 9:00 a.m. to 8:00 p.m. Sunday 10:00 a.m. to 6:00 p.m.; and fall: September 15 through November 25, Monday – Saturday 9:00 a.m. to 7:00 p.m., Sunday 10:00 a.m. to 6:00 p.m., for the sale of plants and plant related items, with condition the tent be removed between the fall and spring seasons of use, 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, Hopping's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19747

Action Requested:

Amendment of a previously approved site plan (BOA 17574) to permit an addition to an existing building. SECTION 701 PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 25, located: 9725 East Admiral Place.

Presentation:

Gale Plummer, 2105 N. Yellowwood, Broken Arrow, stated he is the contractor to build the addition to this facility. A site plan was provided (Exhibit E-1).

Ms. Turnbo abstained from Case No. 19747.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-1 (White, Dunham, Perkins, Stephens "aye"; no "nays"; Turnbo "abstained"; no "absences") to **APPROVE** an Amendment of a previously approved site plan (BOA 17574) to permit an addition to an existing building, per plan submitted today, on the following described property:

All that part of Block 1 of the Amended plat of Van Estates No. 2 – Lying west of the centerline of the drainage easement, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19748

Action Requested:

Special Exception to allow an indoor baseball/softball training facility in an IL district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 19, located: 5460 South Garnett Road.

Presentation:

Tom McCarver, 5460 S. Garnett Rd., stated he is the owner of Batter Up, an indoor baseball-softball training facility. He added it is a 25,000 sq. ft. facility with an indoor dirt in-field. It will be mostly used by the youth teams but is also available for adult teams.

Comments and Questions:

In response to questions Mr. McCarver stated the days and hours of operation would be Sunday – Friday 1:00 p.m. to 9:00 p.m. and Saturdays from 10:00 a.m. to 10:00 p.m. The parking is located within the facility grounds apart from any other business or buildings. During the summer they would like to extend their hours to Sunday – Friday, 10:00 a.m. to 9:00 p.m. May, June, July and August.

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 allow an indoor baseball/softball training facility in an IL district, May through August, from Sunday through Friday, 10:00 a.m. to 9:00 p.m. and Saturdays 10:00 a.m. to 10:00 p.m.; and the remainder of the year from Sunday through Friday, 1:00 p.m. to 9:00 p.m. and Saturdays from 10:00 a.m. to 10:00 p.m., 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:

All that PRT NE SE NE and all that PRT SE NE NE lying S & W of RR ROW less E 50.00' for street, Section 31 T-19- N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19750

Action Requested:

Special Exception to permit a carport in the required front yard. Variance of requirements for carports in required front yards. SECTION 210.B.10. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, located: 744 East 33rd Street North.

Presentation:

Mike January, 9607 Movilla Hills Dr., Sand Springs, Oklahoma, stated he is co-owner of Tulsa Remodel and Restoration, Inc. The owners contracted another company initially, but they took half the payment up front, delivered a few materials and did not return. He made a contract with the Shepherds to build a carport. They thought the previous contractor had obtained the right permit, so when they had a break in their work schedule they went ahead with the job. They received notice from the inspector that the permit was for re-roofing. He asked the Board to allow the carport on the easement so there will be enough room for both cars. He provided photographs of the carport and others in the neighborhood (Exhibit F-1).

Comments and Questions:

Mr. White noted it is an integral part of the house with a pitched roof. Mr. Dunham mentioned that staff did not find Board of Adjustment applications filed on any of the neighboring carports.

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 a carport in the required front yard. **Variance** of requirements for carports in required front yards, as built 22' x 26' on the property line, finding numerous other carports and it is built to look like part of the house, on the following described property:

Lot 12, Block 10, Chandler-Frates 2nd, City of Tulsa, Tulsa County, State of Oklahoma.

it is and to build an addition. He stated there is more paving than would be required. Mr. Loyd informed the Board they propose to exceed the landscaping requirements. He pointed out though the building is a metal exterior, much of it is glass. A site plan was provided (Exhibit K-1).

Comments and Questions:

Mr. Boulden questioned what the previous approval covered. Mr. Beach stated the previous approval was a Special Exception in Section 710, under the provisions of Use Unit 17 to permit oil, lubrication and muffler installation service in a CS district, subject to three conditions: each building limited to three bays; no outside storage; the building be other material than a metal structure. Mr. Boulden asked when it was changed to a transmission shop. Mr. Loyd replied that has been the use all along.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

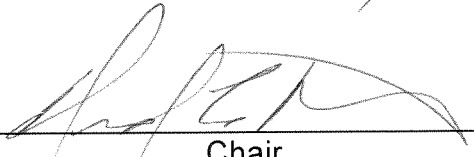
On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **Special Exception** to allow a transmission repair shop; and a **Variance** of a condition of BOA 13112 that does not allow a metal building to expand the existing building with an additional metal building, per plan, with conditions: no inoperable vehicles stored for more than 30 days; no transmissions or related materials be left be stored outside, on the following described property:

Lot 1, Block 1, Mingo Valley Estates Amended, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:33 p.m.

Date approved: FEBRUARY 10, 2009



Chair

