

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 885
Tuesday, April 13, 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

**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 Thursday, April 8, 2004, at 10:55 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. 19795

Action Requested:

Appeal of the decision of the Administrative Official that certain violations exist in the RS-3 district on grounds that the uses existed prior to annexation into the City (1952), located: 11366 East Independence.

Presentation:

Mr. Beach informed the Board that the Neighborhood Inspections Office has withdrawn the complaint, finding this is a lawful non-conforming condition. The case is withdrawn.

Case No. 19788

Action Requested:

Appeal from the decision of Neighborhood Inspector that the fence on the subject property violates the zoning code; **Or** in the Alternative, a Special Exception to allow fence height from 4' and 8' to 8'-5". SECTION 210.B.3, located: 1346 East 26th Street.

Presentation:

Mr. Beach informed the Board that the applicant has asked for a continuance to the meeting on April 27, 2004.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19788 to the meeting on April 27, 2004, regarding the following described property:

Lots 9 and 10, Block 2, Travis Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

MINUTES

On **MOTION of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** the Minutes of March 23, 2004 (No. 884).

UNFINISHED BUSINESS

Case No. 19779

Action Requested:

Special Exception to permit church use. SECTION 401 AND 701. PRINCIPAL USES PERMITTED IN RESIDENTIAL AND COMMERCIAL DISTRICTS – Use Unit 5, located: S, W of SW/c of W Apache & N Tisdale Expwy.

Presentation:

Donald Lepp, 500 ONEOK Plaza, stated he represented Metropolitan Baptist Church. The case was continued to today allowing time for the neighborhood association to meet with the applicants. This is a 70 year old church and has outgrown the present location. He stated it is consistent with the Comprehensive Plan. They met with the neighborhood association. The neighbors wanted an 8' screening fence but the code does not require it. The physical characteristics of the property create a visual separation and make a screening fence unnecessary. He pointed out there is plenty of distance from the residential neighborhood with a wooded area. The neighbors also asked for screening around a playground and trash receptacles. The church does not currently have plans to build a playground or basketball court but they might in the future. They sought access from Apache only to the subject property not through the neighborhood. A site plan was provided (Exhibit A-1).

Comments and Questions:

Mr. White stated the Board received a letter from the Gilcrease Homeowners' Association with a list of concerns and ten conditions to the relief requested. He offered to let Mr. Lepp or other representative for the church respond to the list of conditions.

Mr. Lepp had not seen this letter before but was willing to address the issues. First it requested improvements be made according to the site map with a setback buffer of approximately 160 feet from the residential neighborhood. He responded they are not seeking to do anything on that portion of the property at this time and have not sought any relief there. Lighting was addressed with the association and they intend to point lights down and away from homes, as requested. They plan to use access points from Apache only. They do not plan to open North Quannah or North Rosedale for use. The neighborhood association asked for a gated/locked parking lot when not in use. The church does not agree that is necessary. The association also asked for any playground or basketball court to be placed on the east side of the property. If the applicant decided that the east side of the property is found to be most appropriate place then they would place it there, but there are no blueprints or specific plans to decide this yet. They could put a fence around it if necessary. He addressed the privacy fence in the presentation. He addressed the hours of operation stating it is not like a commercial business. Ms. Turnbo commented that the Board cannot regulate the church hours for activities. They would have the trash receptacles to the rear and fenced, but they cannot regulate when the City provides trash service. The height of the building would meet the zoning code for a residential district.

Mr. Boulden asked if they could agree to the Board imposing hours for outdoor activities such as 10:00 p.m. and 7:00 a.m. Mr. Lepp replied that the applicants have not discussed that issue. A representative of the church replied those hours would not allow for a sunrise service for example. A site plan was provided (Exhibit A-1).

Millard House, 1726 W. Woodrow, stated he is the Chairman of the church Land Acquisition and Development Committee and a resident of Gilcrease Hills West Saddleback Addition. The church intends to fully comply with the zoning code and all other COT ordinances. The church has moved three times, each time because of growth. They hired an architect in 1999 to begin plans for growth. In 2000 they took measures to make this property usable by having a 12" gas line moved. They acquired signatures of homeowners in East Saddleback Addition approving the vacation of this property dedicated to Gilcrease Hills and subject to homeowner association restrictive covenants. They obtained approval of the City Council and the Mayor to vacate the 13 acres from Gilcrease Hills East Saddleback Addition. They filed for vacation of property with Osage County in 2003. The strategic planning session was facilitated by Jane Noble, a professional planner for the Williams Company. This application comes as a result of thorough preparation and planning.

Interested Parties:

Mr. White asked because of the large number of parties present that interested parties sign in for documentation of their support or opposition. See (Exhibit A-2).

Mr. Boulden asked for clarification of the vacation of North Quanah and North Rosedale. It appears those streets are already closed.

Larry Duke, 1919 W. Seminole, stated he is with the Gilcrease Homeowners' Association. He stated they are opposed to the application. He submitted a copy of the Gilcrease Homeowners' Association letter (Exhibit A-3).

Terrill Ramsey, 2323 N. Quanah, stated this project is not low intensity use, as zoned. He stated concern that it would lower property values. The reason for requesting a closed parking lot is to decrease the potential for burglars to park there for a quick get-away. He stated that a day care, community (homeless) center and outdoor activities would create an atmosphere of commercial uses. He expressed concern that this would increase drug activity, loitering and vagrancy. He indicated there should be a site plan and more specific plans for use.

Mr. Beach informed the Board that Mr. Ramsey was referring to uses in Use Unit 2, which are area wide special exception uses. He went on to say that what is being proposed is Use Unit 5 and is completely different. He reminded the Board that the zoning is consistent with the Comprehensive Plan, and approval of a church by special exception is consistent with the Comprehensive Plan.

Tom Sisson, 2309 N. Quanah, stated that 27 years ago the homeowners talked with the development corporation regarding this plat. He was informed there were some pipelines across the property and that would be the last of the development for their village. The subject property amounts to about one third of the village. They promised the home owners this would be a residential neighborhood. The neighbors have lost their rights to develop the property. He is opposed to anything but residential development.

Edwin Ramsey, 2323 N. Quanah, pointed out the southeast portion of the property is sloped and not wooded. He expressed concern for storm water drainage and erosion.

Buck Alford, 1313 W. Young St., stated that the church has made the most improvements and maintained the property better than it has ever been. He considered the proposed church to be the best use for the property.

Nina Jones, 2232 N. Rosedale, expressed concern the church is trying to change the covenants of the neighborhood. She stated that the covenants were what gave the neighborhood stability.

Glenda Sisson, 2309 N. Quanah, pointed out the greenbelts are in the rear of most of the homes in the area. This property would be in the front of the homes to the southeast, which she considered unacceptable. She opposed non-residential development.

Don Walker, 2205 N. Quanah, stated that on the hill side area of Gilcrease there is a church at every entrance. The two-lane streets are not adequate for the current traffic. Mr. Walker pointed out the curve, which would make the traffic from this church especially dangerous. He indicated it would be a dangerous situation for emergency vehicles to try to get through at the peak of Sunday traffic.

Fred Cornish, 1325 W. Woodrow, stated his opposition for some of the same objections mentioned previously.

Applicant's Rebuttal:

Mr. Lepp responded that no homeless shelter is planned for this property. There are no existing plans for a day care. They would apply for approval of such use as required in the future. The church sees no need to gate and lock the parking lot just as the school parking lot is not locked and gated. There are no plans to close Rosedale and Quanah Streets. That part of the property is not before the Board today, and no current plans for that portion of the property. He stated the church has tried to meet with the neighborhood association for over six months to address these issues. They did address the issues with the association at a meeting last week.

For the record, Mr. White noted the legal description specifies the "less and except" to exclude the south portion of the property.

Mr. House assured the Board that the church has done all that it could to act with integrity and consideration for the neighborhood. He informed the Board the church helps feed the homeless at the Salvation Army, but they do not provide a shelter. They have a number of off-duty policemen that provide security at the church.

Ms. Turnbo commented that the church would have to dedicate some land for entrances from Apache. She noted that the church is moving because it is growing and she would not expect it to encroach on the neighborhood if it outgrows this property. The Board does not uphold neighborhood covenants. No zoning is stagnant, and things change. Ms. Turnbo could not see how it would be detrimental to the neighborhood.

Mr. Boulden encouraged the Board to avoid regulating religious activity. It should be treated as any other facility, religious or otherwise.

Mr. Dunham considered the church to be consistent with the Comprehensive Plan and zoning. He pointed out the CS zoned property to the north that has the potential to generate a lot more traffic.

Mr. Stevens stated it would be important to control the ingress and egress to the residential neighborhood. He felt the church was willing to do that and he was inclined to approve.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to permit church use, with the following conditions: that improvements be installed in accordance with the site plan submitted today; all lighting be pointed down and away from the adjacent homes; all access come from Apache Street, and no access allowed from the south; the height of the buildings be limited to 35', except for a spire or similar feature, not to exceed 50', on the following described property:

A tract of land in Section 22, T-20-N, R-12-E, Osage County, State of Oklahoma, more particularly described as follows: Beg. at the NW/c of L 31, Blk 13, Gilcrease Hills Village II, Blks 13 Thru 16, a Subdivision of Land in Osage County, Oklahoma, according to the recorded Plat thereof, thence Nly along the E right of way line of N Quanah Ave., along a curve to the left having a delta of 02°38'09" and a radius of 495.58', a distance of 22.80' to a point; thence S 89°21'17" W, along the N line of L 1 and 18, Blk 14, Gilcrease Hills Village II, Blks 13 thru 16, a distance of 289.84' to a point in the E right of way line of N Rosedale Ave.; thence N 00°38'43" W along the E right of way line of N Rosedale Ave. a distance of 35.00' to a point; thence S 89°21'17" W a distance of 50.00' to a point in the W right of way line of N Rosedale Ave.; thence S 86°59'51" W, along the N line of L 5 and 4, Blk 13, Gilcrease Hills Village II, Blks 13 thru 16, a distance of 116.63 feet to a point; thence N 00°13'50" E a distance of 210.00 feet to a point; thence N 88°23'45" W a distance of 207.45 feet to a point; thence N 00°04'42" W a distance of 2.00' to a point in the S right of way line of W Apache St.; thence N 48°58'33" E along the S right of way line of W Apache St. a distance of 176.43' to a point of tangency; thence Nly and Ely along the S right of way line of W Apache St., along a curve to the right having a delta of 24°55'29" and a radius of 2,028.97', a distance of 882.64' to a point; thence S 26°08'43" E a distance of 627.74' to a point; thence S 01°24'48" W a distance of 169.29' to a point; thence N 88°35'12" W a distance of 266.97' to a point; thence N 26°08'43" W a distance of 85.00' to a point; thence S 63°51'17" W a distance of 89.08' to a point; thence S 00°54'33" W a distance of 109.61' to a point in the N line of L 31, Blk 13, Gilcrease Hills Village II, Blks 13 thru 16; thence S 89°21'17" W along the N line of L 31, Blk 13, a distance of 126.26' to the POB, less and except the former L 6 and L 21 to 30, inclusive, in Blk 13, and the former L 2, 3, 16 and 17 in Blk 14, and the vacated N Rosedale Ave. (between the former L 6, Blk 13, and the former L 2 and 3, Blk 14) and the vacated N Quanah Ave. and vacated W Young Pl. (between and adjacent to the former L 26 to 30, inclusive, in Blk 13, and the former L 16 and 17, in Blk 14) and vacated N Phoenix Ave. (between and adjacent to the former L 21 to 26, inclusive, in Blk 13) in the vacated portion of the Plat of Gilcrease Hills Village II, Blks 13 thru 16, City of Tulsa, Osage County, State of Oklahoma.

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White out at 2:37p.m. and returned at 2:39 p.m.

NEW APPLICATIONS

Case No. 19789

Action Requested:

Variance to allow a two-story accessory building in the rear yard. 210.B.5. YARDS; PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, located: 1523 South Gillette Avenue.

Presentation:

Dan Morgan, 1523 S. Gillette, submitted photographs to the Board (Exhibit B-1). He stated there is an existing room over his garage with an exterior stair access to the room. He proposed to finish out the room and add a shower. He does not plan to put in a kitchen. He went to the Historical Preservation Society and they stated that this project is on the interior only and does not involve historic preservation. He pointed out the photos, which show the view from his room overlooking the roofs of commercial buildings. Mr. Morgan stated this project is consistent with the neighborhood, showing photos of other garages with rooms above. He proposed plans to landscape.

Comments and Questions:

Mr. Dunham asked about any plans to rent the room out. Mr. Morgan replied he does not plan to use it for rental or commercial purposes. Mr. White asked what predicated this application. Mr. Beach responded that when the applicant went for a building permit it was flagged as creating a second story. Ms. Turnbo asked the height of the garage. Mr. Beach replied that it is 22' to the ridge. Mr. Boulden explained to Mr. Morgan that by law the Board has to find an unnecessary hardship created because of the unique situation of the property. Mr. Morgan replied that it exists already and he bought it with the intention of using it. He added that now he is prevented from using it in a reasonable manner. Mr. Morgan stated he did not know of anything unique to the property. He felt that it fits right in with what has been done in the rest of the neighborhood. He added that it already has flooring and electricity and is presently used for storage. Mr. Beach questioned if the story already existed and was it basically approved when the building permit was issued before. Mr. Morgan responded he researched for the permit and was told it was no longer on file. Mr. Beach reminded the Board there was a recent change to the zoning ordinance, indicating it was after 1998. Mr. Morgan suggested this change in the law is the unique hardship.

Interested Parties:

Judy Hollingsworth, 1527 S. Gillette, stated the applicant does not meet the criteria for a hardship as defined by the zoning code. She is opposed on the grounds that it may provide the possibility for another apartment. She noted the variance would go with the land even after it is sold to a new owner. She

submitted a zoning map (Exhibit B-2), and pointed out the three legal non-conforming garage apartments; and the five existing quarters that have not been used in years and lost their non-conforming status. She expressed concern that it would set a precedent. She submitted photographs and details (Exhibit B-3) indicating the transformation of the property since 1998. She pointed out that it overlooks her back yard. She also noted that plumbing was not permitted during the initial construction. It was advertised for sale with unfinished attic space above the garage with electricity.

Ms. Turnbo questioned Ms. Hollingsworth about the exact use of the other garages with space above. Ms. Hollingsworth indicated that to the best of her knowledge from relationships with her neighbors the five she indicated are not occupied.

Gary Watts, 1564 S. Gillette, and **Sherry White**, 1518 S. Gillette, stated opposition to the application for lack of a hardship.

A letter of opposition was submitted (Exhibit B-4).

Councilor Tom Baker, 1323 E. 19th St., commented that this area is in the historic preservation district. He recognized the conflict of the individual's right to the use of personal property and the community's responsibility to preserve a historic resource. He pointed out the value of this area being on the historic national registry to the city, state and nation. He considers it to provide the potential for a second residence.

Applicant's Rebuttal:

Mr. Morgan stated this is not going to be a habitable dwelling. It will be a finished room and will not increase the density.

John Fisher, 3944 S. Madison Pl., stated that a builder would refer to this as a bonus space that could be finished at a later date. The construction of sub-flooring, and walls instead of roof bracing would suggest it was to be finished in the future.

Comments and Questions:

Mr. Boulden asked about access to the space. Mr. Morgan replied that originally there were pull-down stairs inside the garage. The exterior staircase existed when he bought the house in February 2004.

In Board discussion, Ms. Turnbo stated the applicant provided a financial expense and a personal desire to use the space as the hardship, which is not an acceptable hardship. Mr. Stevens suggested a condition to approval that the space could not be used as a rental. Mr. White was inclined to approve with no changes to the exterior appearance. He added it existed when purchased and the three criteria for a dwelling are not present.

Board Action:

On **Motion** of **Stevens**, the Board voted 3-1-0 (White, Dunham, Stephens "aye"; Turnbo "nay"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** to allow a two-story accessory building in the rear yard, with conditions: it is not to be used for rental; and there will be no change to the outside appearance, finding it was already a room prior to his purchase, on the following described property:

Lot 29, Block 1, Hopping's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19790

Action Requested:

Special Exception to allow one manufactured home on Tract A and B, and one on Tract C. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Special Exception to allow them permanently. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located: 3909 West Admiral Boulevard.

Presentation:

Jim Wheeler, 3909 W. Admiral Blvd., proposed to add a second mobile home on three acres for his parents.

Comments and Questions:

Ms. Turnbo asked when he purchased the property. He replied he purchased it in 1998. She asked him if he knew the first mobile home was approved for five years in 1989. He was unaware of the time limit on the approval. He has utilities to Tract A from a house that burned down. He wanted to place the second mobile on Tracts A and B.

Interested Parties:

Afton Lofton, 4119 W. 1st, stated he was opposed to the application because it would lower the value of his property.

Letters of support and opposition were submitted (Exhibits C-1 and C-2).

Comments and Questions:

Mr. White asked if it would be a new mobile home. Mr. Wheeler had considered a two or three year old mobile, but would be willing to buy a new one if required. He was also willing to place it on a permanent foundation. Mr. White noted other mobile homes nearby but not in the immediate area.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to allow one manufactured home on Tract A and B, and one on Tract C;

auxiliary use of the existing car lot and not take in outside work, on the following described property:

N 150.00' of Lot 1, Block 1, Wilmot Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19792

Action Requested:

Special Exception to allow required off-street parking on a lot(s) other than the lot containing the use. SECTION 1301.D. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS, located: 6364 E. 41st St.

Presentation:

Bruce Bolzle, 5550 S. Lewis, Ste. 301, proposed to build a restaurant. The request is to allow required on-street parking on a portion of Lot 2, while the principal use is on a portion of Lot 1. This would all be cleared up by the preliminary plat, which will be filed. 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 **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to allow required off-street parking on a lot(s) other than the lot containing the use, 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:

A tract of land that is part of Lots 1, 2 and 3 of the amended plat of Tulsa View Addition, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof, said tract of land being described as follows: Commencing at the NW/c of said Lot 3; thence due S along the Wly line of the POB of said Lot 3 for 25.00'; thence S 89°52'08" E for 197.81' to the POB of said tract of land; thence continuing S 89°52'08" E for 197.19'; thence due S for 8.00'; thence S 89°52'08" E for 175.00'; thence S 61°31'47" E for 56.88'; said point being 25.00' Wly of the Ely line of said Lot 1; thence due S for 250.96'; thence due W for 166.33'; thence N 0°00'55" E for 60.84'; thence N 89°59'05" W for 255.87'; thence due N for 226.01' to the POB of said tract of land.

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Case No. 19793

Action Requested:

Special Exception to allow U.U. 19, Hotel/Motel in an IL-zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 19; and a Variance of required 75' setback to 25'. SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS, located: 18701 E. Admiral Pl.

Mr. Stevens out at 3:45 p.m. and returned at 3:47 p.m.

Presentation:

Ted Sack, 111 S. Elgin, proposed to build a motel on IL zoned property. To the east is a heavy equipment dealership. The owners of that tract were present but had to leave, but after seeing the site plan they had no objections. To the west is a tract that is being used as residential but is in transition from residential to IL use. He stated the hardship is the irregular shape and narrowness of the tract. He added that a motel did not require more than the 25' setback. He pointed out that they intentionally placed the parking lot on the industrial side of the building for a noise buffer. A site plan was provided (Exhibit F-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, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to allow U.U. 19, Hotel/Motel in an IL-zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 19; and a **Variance** of required 75' setback to 25', per plan, finding this is a commercial rather than industrial use; the parking is located on the east side of the property instead of adjacent to the existing residential use; and there is some question as to whether the tract to the west is zoned residential or commercial, on the following described property:

E 185.32' of the W 620.65' of government Lot 2, Section 1, T-19-N, R-14-E, City of Tulsa, Tulsa County, State of Oklahoma, and being located in an IL zoned district.

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Case No. 19794

Action Requested:

Special Exception to permit a residential accessory building on an adjoining lot. SECTION 1608.A.11. BOARD OF ADJUSTMENT; SPECIAL EXCEPTION, located: Vacant lot east of 3816 East 105th Street.

Presentation:

Ted Adkins, 3816 E. 105th St., stated he owns two pieces of property off of 105th Street and Louisville. Each of the properties is 1 1/3 acres. He proposed to build a metal accessory building on the southwest corner of the undeveloped property. He submitted photographs (Exhibit G-1). He pointed out the fence line that separates the two properties. The location would be down an 80' elevation drop out of sight from the neighbor's house.

Comments and Questions:

Mr. Dunham asked for the use of the building. He replied for storage, including a duck boat and garden tractor. Mr. Boulden informed the applicant that the ordinance specifies there be a tie agreement for the lot with the accessory building with the lot of the principal use.

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, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to permit a residential accessory building on an adjoining lot, with condition for a tie-agreement with the lot of principal 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 199.50' W 359.80' E 719.60' S 305.37' SE NW, Section 28, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19796

Action Requested:

Variance to allow two single-family dwellings on one lot for a period of three years, located: 11450 S. Winston Ave.

Presentation:

Bart James, 8908 S. Yale, Ste. 200, stated he represented the owners of the property. The applicant proposed to leave the existing house on the property until the new house is built.

Comments and Questions:

Mr. Boulden asked for the hardship. Mr. James replied it is the size of the lot.

Interested Parties:

Betty Shawl, 11430 S. Winston, stated her property is adjacent to the upper part of the subject property. She informed the Board she would not be opposed if

assured the first house would be temporary; maintained well; and removed upon completion of the new home.

Earnest Moody, 11455 S. Winston, stated his property abuts the subject property. He was not in objection to a temporary variance to allow the applicant to build a house.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE a Variance** to allow two single-family dwellings on one lot for a period of three years, with the condition the existing house is removed within 30 days of the completion of the new house, finding the size of 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:

Lot 4, Block 3, Country Squire Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19797

Action Requested:

Variance of maximum height allowed for RS-3 from 35' to 63' –SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of minimum setback for parking lots from 25' to 13' (east side of parking), and 17' 6" (south side of parking) for a new lot on corner of Pittsburg and 5th Place - SECTION 1201.C.2.d., located: 3909 East 5th Place.

Presentation:

Wit Todd, architect for Tulsa Public Schools, stated the project is a new gymnasium for Rogers High School. He submitted a map of the property.

Mr. Dunham out at 4:11 p.m.

He pointed out the area for a detention pond, which the school system gave up and limited the amount of room left for expansion. Mr. Todd stated that the new gym would approximately double the size of the old gym. It would allow the high school to have assemblies of the whole student body at one time. He commented that the locker rooms are on the lower level and does not work very well. The new gym would be to the north of the main building. They would increase parking by 68 spaces, which would be 30+ spaces more than the required parking. The plans include a small parking lot on the southeast corner for faculty and visitor parking only. He supplied site plans and other exhibits (Exhibits H-1 and H-2). The new building architecture would be close to the same level of detail as the original building. It would be free-standing and would not be attached to the existing

building. It will include 1200 seats in the gym, locker rooms, weight room, cheerleading room, and a running track.

Mr. Dunham returned at 4:17 p.m.

They plan for additional landscaping to meet the code requirements.

Interested Parties:

Bill Kumpe, 519 S. Pittsburg, stated he spoke for himself, his wife, and other neighbors in opposition to the parking lot at the corner of 5th and Pittsburg. They oppose a variance to any change in the setback for the parking lot and they oppose construction of a gymnasium. They are concerned about the heavy volume of traffic, and high speed traffic at this corner at times. He added that when the school buses are parked at the school, it causes a blind corner. He stated the proposed construction is incompatible with the residential neighborhood.

Russell McDaris, 439 S. Pittsburg, stated he is an architect, submitted photographs (Exhibits H-3 and H-4) to show existing and proposed views. He indicated the mature trees would be removed. He added that the current parking lot does not meet the parking needs.

Bruce Beldon, 439 S. Pittsburg, **Joyce Rhienke**, 708 S. Oswego, and **Robert Rhienke** expressed some of the same objections to the application as mentioned previously. An aerial photos and letters of support and opposition were provided (Exhibits H-5 through H-9).

Applicant's Rebuttal:

Mr. Todd responded that this project was approved with the 2001 bond issue and was advertised in the newspapers. The plans were reviewed by Kurt Ackermann and meet the required parking spaces. When they apply for the building permit it will be reviewed again. He stated that this will not increase enrollment, or the number of cars coming to the school. It is an amenity for the existing school population. They will not bulldoze all of the trees as the plans were drawn to preserve numerous mature trees. The faculty would use the new parking lot and faculty leaves after the buses run.

Board discussion ensued.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of maximum height allowed for RS-3 from 35' to 63'; and a **Variance** of minimum setback for parking lots from 25' to 13' (east side of parking), and 17' 6" (south side of parking) for a new lot on corner of Pittsburg and 5th Place, per plan, finding they are meeting the parking requirement; there is limited space to provide these facilities; finding the restraints of the existing building and the flood plain that lies to

the west of the facility these are logical locations to make these improvements, on the following described property:

NW/c of the SW/4 Section 4, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma; thence S 0°08' W a distance of 791.00'; thence S 28°45' W a distance of 40.03' to the center line of Fifth Place projected; thence E along said center line a distance of 1,437.10' to the E boundary line of said line a distance of 1,437.1' to the E boundary line of said SW/4; thence N 0°3.50' E a distance of 826.00' to a point on said E boundary line 25.00' S of the NE/c of said SW/4; thence W and parallel to the N line of said SW/4 a distance of 1,417.08' to the POB and containing 26.894 acres.

Case No. 19798

Action Requested:

Variance of the required 25' setback from 3rd Street to 18' 8" for an existing non-conforming building, located: 220 South Sheridan Rd.

Presentation:

Cory Crockett, 6380 E. 31st St., Ste. A, represented the applicant, John Bradley. This application is to correct an existing condition.

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, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of the required 25' setback from 3rd Street to 18' 8" for an existing non-conforming building, finding the building has existed for a number of years, and this is to approve an existing condition, on the following described property:

Lot 1, Block 1, L&M Center Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

Case No. 19799

Action Requested:

Special Exception to waive the screening requirement along east property lines. SECTION 1216.C.1. USE UNIT 16. MINI-STORAGE, located: 1125 South Peoria.

Presentation:

Danny Mitchell, 5110 S. Yale, Ste 510, stated he was the architect and the owner of the project. The zoning code requires a screening fence a commercial property

from a residential property. He submitted a photograph (Exhibit I-1). The code also allows them to build on the property line. The building is two feet west of the property line and does not leave enough room to erect a fence and maintain it. He stated the four-story building adequately screens from the residential property, having no doors or windows on that side. All activities are on the west side of the building.

Comments and Questions:

Mr. White commented the Board had one letter of opposition (Exhibit I-2) from a property owner on the opposite side of the 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, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to waive the screening requirement along east property lines, finding the building sets within two feet of the property line and it would be impractical to construct a screening fence, on the following described property:

Lots 31 – 44 inclusive, Block 4, Orchard Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19800

Action Requested:

Variance to allow two dwelling units on one lot. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; a Variance of allowable size of accessory building from 500 sq. ft. to 718 sq. ft. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS; a Variance of 30% coverage of required rear yard. SECTION 210.B.5.a. YARDS; PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; a Variance of the required land area per dwelling unit from 8,400 square feet to 7,216 square feet. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance to expand a nonconforming structure. SECTION 1405. STRUCTURAL NONCONFORMITIES; and a Variance of the required parking from 4 spaces to 2 spaces. SECTION 1206. USE UNIT 6. SINGLE FAMILY DWELLINGS, located: 1147 S. Owasso.

Presentation:

Jennifer Grant, 1147 S. Owasso, stated she has lived at this address since 1991. The property is owned by her mother and is in a trust for her. She submitted a floor plan for the existing building and showed the proposed addition (Exhibit J-1). She stated the hardship is that the property is a non-conforming lot, 50' wide. There are several other properties with similar sized lots with two dwelling units.

She added that she has more space, about 80' across the front because of the closing of 12th Street. It provides a 150' driveway to the building at the back. It would not be used for rental property. Their church would like to provide the living space for her friend who has Parkinson's Disease. They already have licensed contractors secured and much of the building materials have been provided. She presented an artist's rendition of the proposed building (Exhibit J-4). Ms. Grant informed the Board that from the front of the house the back building is not visible. Mr. Boulden asked for a hardship. She replied that the lot is non-conforming with only 50' of frontage. She added that most every home in the neighborhood has an additional building. A petition of support, letter of support, and photographs were provided (Exhibit J-2 through J-5).

Deborah McGuire, 4584 W. 88th St., stated they have licensed construction contractors and electricians. She identified another property with a similar situation at 1221 S. Newport Ave. They have been in the process of cleaning up the property; and the exterior would be look like the main residence.

Interested Parties:

Sherry Hadley, 1148 S. Owasso, stated she lives across the street from the subject property. She stated that Tracy Park is a historic neighborhood and is vital to the revitalization of downtown Tulsa. Many of the properties in the neighborhood have second dwellings. Some of them are rented out and they have many cars parked on the street.

Ms. Turnbo left at 5:00 p.m.

Miles Heins, 504 S. Owasso, expressed concerns previously stated.

Donna Rutledge, 1205 S. Owasso, submitted photographs to the Board (Exhibit J-6). She complained about the lack of property maintenance on the subject property. She expressed concern that previous construction was done without building permits.

Councilor Tom Baker, 1323 E. 19th St., stated this area is on the National Registry of Historic Preservation Districts but it does not have the historic zoning overlay. He expressed concern this would become rental property.

Comments and Questions:

Mr. Dunham stated that just the number of variances alone is enough to discourage him from supporting this application. Mr. Stevens opposed the application because it was not an existing structure.

Board Action:

On **Motion of Dunham**, the Board voted 3-0-0 (White, Dunham, Stephens "aye"; no "nays"; no "abstentions"; Turnbo, Perkins "absent") to **DENY** a **Variance** to allow two dwelling units on one lot; a **Variance** of allowable size of accessory

building from 500 sq. ft. to 718 sq. ft.; a **Variance** of 30% coverage of required rear yard; a **Variance** of the required land area per dwelling unit from 8,400 square feet to 7,216 square feet; a **Variance** to expand a nonconforming structure; and a **Variance** of the required parking from 4 spaces to 2 spaces, finding a lack of hardship; and finding it would be detrimental to the neighborhood, on the following described property:

Lot 10, Block 4, Ridgewood Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19802

Action Requested:

Variance of minimum lot width from 100' to 84' to permit a lot-split. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 2512 E. 38th St.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 500, represented the owner of 2512 LLC. He submitted a packet of exhibits (Exhibit K-2). The applicant proposed to obtain a lot-split of the property, remove the existing home and build two homes simultaneously. The lot area is large and zoned RS-1, but each of the lots would exceed 14,000 sq. ft. The standard lot is 13,500 sq. ft. The required land area is 16,000 sq. ft., and each of these lots would have 18,731 sq. ft. Mr. Johnsen referred to the site plan (Exhibit K-1) emphasizing the open space of the lots would be 9,000 sq. ft. on the western lot and 8,700 sq. ft. on the east. They contacted the neighbors and found them in support. One neighbor (Mr. McMann) was present but had to leave and gave Mr. Johnsen permission to speak for him. His concern was that it not set a precedent for changing the RE zoning district. He submitted a letter of support (Exhibit K-3). Mr. Johnsen quoted from a case brought before the Supreme Court regarding the expression, "contrary to the public interest and unnecessary hardship", which must be given a reasonable interpretation. He stated that the proposed plans would far exceed RS-1 standards and meets RS-2 standards. He pointed out a prior Board case on property two lots to the south that permitted a greater departure from the code than this case.

Comments and Questions:

Mr. White commented that the Board received one letter of opposition (Exhibit K-4).

Interested Parties:

David vonHartzsch, 2118 S. Atlanta, stated he represented Barry and Valerie vonHartzsch, who wrote the letter of opposition. They are concerned about any increased storm water drainage, as the drainage system is already inadequate. He noted the sloping topography on the subject property. He stated there is no hardship and it would be a detriment to the neighborhood.

Applicant's Rebuttal:

Mr. Johnsen responded regarding the drainage. The ordinance has a requirement of livability space based on per lot. It is possible to have less impervious area with two lots than with one. This is a useable lot that meets all of the requirements for two houses.

Comments and Questions:

Mr. Stevens noted the plan to use S. Atlanta for access to a garage provides a deciding factor for him to approve this application. Mr. Dunham stated that drainage is not an issue for the Board to consider because the City of Tulsa will require they not displace any more water from the lot than current conditions allow.

Board Action:

On **Motion** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Stephens "aye"; no "nays"; no "abstentions"; Turnbo, Perkins "absent") to **APPROVE** a **Variance** of minimum lot width from 100' to 84' to permit a lot-split, per plan, finding there are other lots in the area that have smaller frontage and these lots exceed the lot requirement in square footage, on the following described property:

N 194.00' of East 168.11' of the N/2 NW/4 SW/4 SW/4 less street right-of-way, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19803

Action Requested:

Variance of average lot width from 60' to 50'; and a Variance of the land area per dwelling unit from 8,400 to 8,250 sq. ft. for lot-split #19674, located: 1440 East 35th Street.

Presentation:

Jeffrey G. Levinson, 35 E. 18th St., stated he represented the buyer of the property. The hardship is that the property was platted in 1927 and since then the zoning requirements have changed.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:


On **Motion** of **Dunham**, the Board voted 3-0-0 (White, Dunham, Stephens "aye"; no "nays"; no "abstentions"; Turnbo, Perkins "absent") to **APPROVE** a **Variance** of average lot width from 60' to 50'; and a **Variance** of the land area per dwelling unit from 8,400 to 8,250 sq. ft. for lot-split #19674, finding the hardship to be that it is in keeping with the rest of the neighborhood in lot size, and it will not be detrimental to the neighborhood, on the following described property:

Lot 8, Block 6, Oliver's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

said Nly right-of-way line of E 71st St.' thence S 88°42'46" W along said Nly right-of-way line for 134.51' to the POB of said tract of land.

There being no further business, the meeting was adjourned at 5:50 p.m.

Date approved: April 27, 2009



Chair