

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 629
Tuesday, March 23, 1993, 1:00 p.m.
Francis F. Campbell, City Council Room
Plaza Level of City Hall
Tulsa Civic Center

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF PRESENT | OTHERS PRESENT |
|---|-----------------------|---------------------------|---|
| Bolzle, Chairman Chappelle Doverspike S. White T. White | | Gardner Jones Moore | Linker, Legal Department Hubbard, Public Works Parnell, Code Enforcement |

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, March 19, 1993, at 1:19 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Bolzle called the meeting to order at 1:00 p.m.

MINUTES:

On **MOTION** of **CHAPPELLE**, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; S. White, "absent") to **APPROVE** the Minutes of March 9, 1993 (No. 628).

UNFINISHED BUSINESS

Case No. 16267

Action Requested:

Appeal the decision of the administrative official that a business is being conducted on the property and the parking of vehicles, equipment, supplies and an accessory building in an RS-3 zoned district - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 25, located 8717 South Vandalia Avenue.

Presentation:

The applicant, **E. L. Parker**, 8717 South Vandalia, was represented by **John Moody**, 550 Oneok Plaza, who informed that his client purchased the subject property in 1959, and has continuously used the lot to store his business equipment. He stated that a storage building was erected in 1960 and was later replaced by the existing building. A copy of the deed (Exhibit A-1) and an affidavit signed by Mr. Parker (Exhibit A-2) were submitted. Mr. Moody stated that the affidavit states that Mr. Parker has continuously operated his business on the property

Case No. 16267 (continued)

since 1959; however, Mr. Jackere has questioned if there was a loss of nonconformity when the storage building was removed and later replaced. He noted that, if this occurred, his client was to cease operation after one year. Mr. Moody asked the Board to find the use to be nonconforming; however, if required, Mr. Parker would be amenable to relocating his business in one year. Mr. Moody stated that his client was not previously aware of the one-year termination provision.

Comments and Questions:

Mr. Jones informed that aerial photographs for 1966 indicate that there was miscellaneous storage on the property. He pointed out that the use became more intense over the years. He noted that a letter (Exhibit A-3) received from Mr. Jackere states that, although the applicant may be able to show a lawful nonconforming use was established prior to June 10, 1963, the provisions applicable to the property upon its annexation may have required its termination in 1967.

Mr. Linker advised that the Board does not have the jurisdiction to permit an illegal use for one year.

Mr. Bolzle asked Mr. Linker if the applicant can file an application for a variance to operate for one year, and Mr. Linker stated that this might be a use variance, which cannot be approved by the Board because of State law.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **UPHOLD** the decision of the administrative official, and **DENY** an **Appeal** of the decision of the administrative official that a business is being conducted on the property and the parking of vehicles, equipment, supplies and an accessory building in an RS-3 zoned district - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 25; finding that the business was in operation at this location prior to 1963 and, therefore, a nonconforming use which lost its nonconforming status in 1967 when the accessory building was removed; on the following described property:

Lot 2, Block 2, Wigwam Hills Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16281

Action Requested:

Special Exception to permit a home occupation (beauty shop) in an R District - **Section 402.B.6. Accessory Uses Permitted in residential Districts** - Use Unit 14, located 4959 East 26th Place.

Presentation:

The applicant, **Linda Stokes**, 4959 East 26th Place, requested permission to operate a beauty shop in her home, and stated that she will not have employees. A petition of support (Exhibit B-1) was submitted.

Comments and Questions:

Mr. Bolzle inquired as to the days and hours of operation, and the applicant stated that she plans to be open five days a week, 10 a.m. to 6 p.m.

Ms. White asked if the beauty shop will only have one chair, and the applicant answered in the affirmative.

In response to Mr. Bolzle, Ms. Stokes stated that she is aware that she cannot have anyone assist her in the business, other than her immediate family.

Protestants:

Robert Hammond, 4973 East 26th Place, stated that he lives three doors from the proposed use, and is opposed to the home occupation. He submitted a letter and petition of protest (Exhibit B-2), and informed that there is an existing traffic problem in the neighborhood, which would be worsened by the proposed business.

Neil Walker, 4936 east 26th Place, stated that the home occupation will be detrimental to the neighborhood, and will have an adverse impact on property values in the area.

Applicant's Rebuttal:

Ms. Stokes pointed out that she has a large driveway for customer parking, and the majority of the neighbors are supportive of her application.

Additional Comments:

Ms. White asked Ms. Stokes if she is amenable to scheduling her appointments 15 minutes apart, to prevent more than one customer from being on the premises at any given time, and she replied that it is her intent to have a short time period between customers.

Case No. 16281 (continued)

In response to Ms. White, Ms. Stokes stated that her days of operation will be Tuesday through Saturday.

Board Action:

On MOTION of S. WHITE, the Board voted 3-0-2 (Bolzle, Chappelle, S. White, "aye"; no "nays"; Doverspike, T. White, "abstaining"; none, "absent") to **APPROVE** a **Special Exception** to permit a home occupation beauty shop in an R District - **Section 402.B.6. Accessory Uses Permitted in Residential Districts** - Use Unit 14; subject to the days and hours of operation being Tuesday through Saturday, 10 a.m. to 6 p.m., subject to one client at a time, with a 15 minute interval between each appointment; subject to customer parking being off the street and on the premises; and subject to the Home Occupation Guidelines; finding that the home occupation, per these conditions, will be compatible with the residential neighborhood; on the following described property:

Lot 31, Block 3, Lortondale Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16282

Action Requested:

Special Exception to permit a home occupation (monogramming/embroider), and a Variance to permit a co-worker who does not reside in the residence - **Section 402.B.6. Accessory Uses Permitted in Residential Districts** - Use Unit 14, located 3438 South Zunis Avenue.

Presentation:

The applicant, **Jane Redden**, 3438 South Zunis Avenue, stated that it was apparently reported to the City that she is operating a business in her home. She explained that, since her divorce, she has been supporting her children by operating a monogramming and embroidery business in her home, and that her neighbors are supportive of the business (Exhibit C-1). Ms. Redden informed that her neighbor across the street is a part-time employee.

Comments and Questions:

Ms. White asked if customers bring items to the home and pick them up later, and Ms. Redden stated that she has a few customers of this type, but the major portion of her business is working for various stores. She explained that these items are picked up at the store and delivered after the work has been completed. Ms. Redden added that some work is done for advertising agencies, with these orders being taken by phone and picked up by the client.

Case No. 16282 (continued)

Ms. White inquired as to the deliveries, and the applicant replied that all deliveries are made by a local delivery service.

In response to Mr. Doverspike, Mr. Jones stated that it was difficult for Staff to determine if the monogramming/embroidery business would be classified as sewing, which is a permitted home occupation.

Mr. Doverspike stated that the standard by which the Board grants variances involves uniqueness of the property, and a variance to permit a co-worker does not involve the property. Mr. Linker advised that a hardship, as specified in the Code, must be found or that portion of the application denied. Mr. Doverspike pointed out that this case does not involve the property, and voiced a concern as to the guidelines that should be used in making a determination in this type of case.

Ms. White stated that she does not find this home occupation significantly different from that of a seamstress making alterations and sewing in her home. She remarked that she is concerned with approving a variance to permit a co-worker without finding a hardship, as stated in the Code.

Mr. Jones advised that, if the Board finds the monogramming business to be the same as a seamstress, anyone in the neighborhood could have a similar monogramming business.

Mr. Bolzle stated that he does not find this use to be one that should be permitted by right, because a business of this nature has the potential to grow and create a neighborhood problem.

Interested Parties:

Betsy Snow, 3441 South Zunis Avenue, stated that she has lived at the current location for approximately 22 years, and assists Ms. Redden in her business when she has a large order. She requested that the application be approved.

Ms. Parnell informed that she issued a citation to the applicant, because she does not consider the monogramming/embroidery business to be a use by right. She stated that Ms. Redden is operating commercial machinery in her garage.

Protestants:

None.

Case No. 16282 (continued)

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Special Exception** to permit a home occupation monogramming/embroider, and to **DENY** a **Variance** to permit a co-worker who does not reside in the residence - **Section 402.B.6. Accessory Uses Permitted in Residential Districts** - Use Unit 14; finding the use, as presented, to be compatible with the residential neighborhood; and finding that the applicant failed to demonstrate a hardship that would warrant the granting of a variance; on the following described property:

South 85' of Lot 6, and the north 10' of Lot 7, Idyllwyld, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16284

Action Requested:

Variance of the required front yard from 55' to 44', 36' and 42' to permit construction of a carport on three separate lots - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 4652-4662 South Rockford.

Presentation:

The applicant, **Julius Chapin**, 4662 South Rockford, informed that he has installed carports (Exhibit D-3) on three of his properties on South Rockford, and requested that they be permitted to remain. The applicant stated that he lives in one home, his mother lives in one and the third dwelling is rented to an individual that assists in the care of his mother. Mr. Chapin explained that he was not aware that a building permit is required when constructing a carport, because the business that sold him the material advised him that a permit is not necessary. He pointed out that there are numerous carports in the neighborhood (Exhibit D-1).

Comments and Questions:

Mr. Doverspike asked Mr. Chapin if his dwellings have garages, and he replied that they all have a one-car garage.

Mr. Jones stated that, although there are numerous carports in the neighborhood, there is no evidence of Board of Adjustment action approving these structures. He added that they do not appear to be old enough to be nonconforming.

Case No. 16284 (continued)

Mr. Jones asked the applicant if he employed a contractor to erect the carports, and Mr. Chapin replied that he purchased the material from Town and Country (Exhibit D-2) in Broken Arrow, but a carpenter installed the structures. He reiterated that Town and Country told him that a building permit would not be necessary.

Ms. White stated that she site-checked the area and, although there are numerous carports in the neighborhood, it is difficult to find a hardship for the variance.

Mr. Gardner pointed out that houses that were built on small lots approximately forty or fifty years ago, with one-car garages and back yards that were inaccessible, were unique to that neighborhood. He added that these are the homeowners that usually construct carports to cover a second vehicle. Mr. Gardner stated that, in the past, the Board has considered the character of the neighborhood in determining if the variance request is appropriate.

Mr. Doverspike asked Mr. Linker if the existence of other carports in the area will be considered if the Board denies the case and it is appealed to District Court.

Mr. Linker replied that this is a legitimate consideration and the fact that the lots are narrow and the houses are close together could also be considered.

Mr. White stated that, although the carports are not permitted, they do encourage the owners to park their vehicles off the street.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** of the required front yard from 55' to 44', 36' and 42' to permit construction of a carport on three separate lots - **Section 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; subject to all sides of the carport remaining open; finding that there are numerous carports in the area; and finding that the properties in question are located in an older subdivision, with narrow lots, single car garages and back yards that are inaccessible; on the following described property:

Lots 10, 11 and 12, Block 6, Bellaire Acres, City of Tulsa, Tulsa County, Oklahoma.

No. 16285

Action Requested:

Variance of the required frontage in a CS District from 150' to 50' to permit a lot split - **Section 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 11/17, located 6520 South Lewis.

Presentation:

The applicant, **Charles Gilmore**, 6520 South Lewis, Suite 18, submitted a plot plan (Exhibit K-1), and explained that he is proposing a lot split to divide the property containing an office building (Tract I) from the one with the mini-storage facility (Tract II). He informed that the property is being refinanced, and the title company has required a lot split.

Comments and Questions:

Mr. Gardner asked the applicant if construction is proposed on the portion of the property reserved as an easement, and he replied that the easement is filed of record, and will only be used for access and parking.

Protestants:

None.

Board Action:

On MOTION of **DOVERSPIKE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** of the required frontage in a CS District from 150' to 50' to permit a lot split - **Section 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** - Use Unit 11/17; per plan submitted; subject to no construction on the access and parking easement on Tract I; finding that the 50' frontage on Lewis Avenue is an access road for entry to the existing mini-storage facility (Tract II) located behind the office building (Tract I); finding that a similar lot split has been approved in the immediate vicinity, and that approval of the request will not be injurious to area; on the following described property:

Lot 14, Pecan Acres, less the south 20' of the west 450' of the east 850', City of Tulsa, Tulsa County, Oklahoma.

Case No. 16286

Action Requested:

Variance of the maximum 20% coverage of the required rear yard for a detached accessory building to 26% - **Section 210 B.5. Permitted Obstructions in Yards** - Use Unit 6, located 1602 North Maplewood.

Presentation:

The applicant, **Dale Heath**, 1602 North Maplewood, requested permission to construct an accessory building that will cover 260 sq ft of his rear yard, instead of the 200 sq ft permitted. A plot plan (Exhibit E-1) and photographs (Exhibit E-2) were submitted. Mr. Heath stated that his neighbors are supportive of the application.

Comments and Questions:

Mr. Doverspike inquired as to the use of the property to the north of the proposed accessory building, and the applicant stated that there is a dwelling on that lot, with yard space to the north of his building.

In response to Mr. Doverspike, Mr. Heath stated that the walls of the proposed building will be 8', with a 10' peak.

Protestants:

None.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** of the maximum 20% coverage of the required rear yard for a detached accessory building to 26% - **Section 210 B.5. Permitted Obstructions in Yards** - Use Unit 6; per plan submitted; finding a hardship imposed on the applicant by the corner location and the irregular shape of the lot; on the following described property:

Lot 6, Block 4, South Dawson Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16287

Action Requested:

Special Exception to permit church use on property abutting an existing church - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5, located 8660 East Skelly Drive.

Presentation:

The applicant, **Skelly Drive Baptist**, 8505 East Skelly Drive, was represented by **Clarence Jones**, 1315 South 101st East Avenue. He submitted a plot plan (Exhibit F-1) and requested permission to use an existing dwelling for church use. Mr. Jones informed that the church has recently purchased the house next door, which will provide additional classroom space.

Comments and Questions:

Ms. White asked if the dwelling will remain as it is, with no changes, and Mr. Jones answered in the affirmative.

In response to Mr. Doverspike, Mr. Jones stated that the property across the street to the northeast is occupied by the Lutheran Church.

Mr. Ricky Jones advised that platting will be required.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Special Exception** to permit church use on property abutting an existing church - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5; per plan submitted; subject to the dwelling remaining in its present condition; and subject to no additional construction or parking on the lot without Board approval of the revised site plan; finding that church use is established on abutting property, and approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

The east 149.2' of the west 752' of the NE/4 of the SW/4 lying south of U.S. Highway 66 Bypass, Section 13, T-19-N, R-13-E, of the IBM, Tulsa County, Oklahoma, according to the U. S. Government Survey thereof, less roadway, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16288

Action Requested:

Special Exception to permit portable building sales in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15, located southwest corner of East 41st Street South and U. S. 169.

Presentation:

The applicant, **Adrian Smith**, 5157 East 51st Street, Suite 100, submitted a site plan (Exhibit G-1) and a letter (Exhibit G-2) explaining the application. He requested permission to sell portable buildings on the subject property, which is located east of an existing mobile home park and west of Mingo Valley Expressway. Mr. Smith informed that there is one access point on 41st Street, which has been approved by the Traffic Engineering Department. He pointed out that the portable buildings will not remain at the same location as depicted on the plan.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Special Exception** to permit portable building sales in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15; per letter submitted; subject to the approval being for portable building sales only (Use Unit 15); finding the sales operation to be consistent with surrounding uses; on the following described property:

East 300' of the north 528.53' of the NE/4, NW/4, Section 30, T-19-N, R-14-E of the IBM, Tulsa County, Oklahoma, less the north 75' and the east 63.55' thereof, and less a 52' square tract of land thereof described as follows: Commencing at the NE/c of said NE/4, NW/4, Section 30, T-19-N, R-14-E of the IBM, Tulsa County, Oklahoma, thence S 0°16'46" W for a distance of 75', thence due west for a distance of 63.55', thence S 0°16'46" W for a distance of 294.63', thence due west for a distance of 4.18' to the Point of Beginning of said tract of land, thence continuing due west for a distance of 52', thence due south for a distance of 52', thence due north for a distance of 52' to the POB of said tract of land, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16290

Action Requested:

Special Exception to permit a Use Unit 14 (building materials establishment) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 14, located west of SW/c 8th Street and Landsing Ave.

Presentation:

The applicant, **Roy Johnsen**, attorney, 201 West 5th Street, Suite 440, was represented by **Jerry Sutton**, City Department of Urban Development. He advised that Mr. Johnsen is not available, and asked the Board to approve a building materials establishment on the subject property. He informed that the property in question is surrounded by CBD zoning, and could be rezoned to that classification, which would permit the use by right.

Comments and Questions:

Mr. Gardner stated that the Comprehensive Plan designates the area as CBD, and the applicant could file for a zoning change, or apply for Board of Adjustment relief, which is a faster process. He informed that the use would be permitted by right in a CBD zoning district.

Protestants:

None.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none, "absent") to **APPROVE** a **Special Exception** to permit a Use Unit 14 building materials establishment in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** - Use Unit 14; finding that the use is compatible with the surrounding uses; and finding that the property could be rezoned to CBG, which would permit the intended use by right; on the following described property:

Lots 13, 14 and 15, Block 11, Burnett Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16294

Action Requested:

Variance of the maximum sign height from 50' to 60' to permit the alteration of an existing ground sign - **Section 1221.C.1 General Use Conditions for Business Signs** - Use Unit 21, located 11620 East Skelly Drive.

Presentation:

The applicant, **Oklahoma Neon**, 6550 East Independence, was represented by **Duane Gooding**, who stated that a setback variance was recently approved for the sign in question; however, at that time, he was unaware that the sign height was 10' over the permitted amount. Mr. Gooding noted that all signs in the area are 60' (Exhibit H-1) in height, due to the elevation of the highway. A sign plan (Exhibit H-2) was submitted.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-1-0 (Bolzle, Chappelle, S. White, T. White, "aye"; Doverspike, "nay"; no "abstentions"; none, "absent") to **APPROVE** a **Variance** of the maximum sign height from 50' to 60' to permit the alteration of an existing ground sign - **Section 1221.C.1 General Use Conditions for Business Signs** - Use Unit 21; per sign plan submitted; finding a hardship imposed on the applicant by the elevation of the highway; on the following described property:

Lot 1, Block 1, Sho-Me Addition, an addition to the City and County of Oklahoma.

There being no further business, the meeting was adjourned at 2:25 p.m.

Date Approved Apr. 13, 1993


Chairman

