

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 634
Tuesday, June 8, 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 Doverspike S. White T. White	Chappelle	Gardner Jones Moore	Jackere, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, June 4, 1993, at 3:39 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 **T. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** the Minutes of May 25, 1993 (No. 633).

Comments and Questions:

Mr. Jones advised that a verbal request for a continuance of Case No. 16365 was received by phone on June 7. He informed that the applicant, Mr. Barrett, has acquired an attorney to review the application.

Mr. Bolzle informed that he will abstain from hearing the case.

James Lamb, 5110 South Yale, attorney for the applicant, informed he recently agreed to present the application for Mr. Barrett, and is need of additional time to prepare his presentation.

Mr. Jones advised that the applicant failed to appear at the previously scheduled meeting and the case was struck from the agenda. He added that the applicant has filed a new application, which is before the Board at this time. Mr. Jones explained that one continuance is customarily granted to either the applicant or the protestant if the request is received at the INCOG office on or before Thursday preceding the meeting, which is considered to be a timely request. He pointed out that Mr. Barrett's request for a continuance is not timely.

Comments and Questions (continued)

Mr. Doverspike asked if the current application is identical to the one that was previously filed, and Mr. Jones answered in the affirmative.

A protestant, **Marty Sellers**, 1426 South Troost, stated that she is not opposed to a continuance.

Mr. Jones advised that the use is existing and **Candy Parnell**, Code Enforcement, has issued a cease and desist order.

After discussion, it was the consensus of the Board that the application was filed several weeks prior to this hearing, and that the applicant has had ample time to prepare a presentation.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-1 (Doverspike, S. White, T. White, "aye"; no "nays"; Bolzle, "abstaining"; Chappelle, "absent") to **DENY** the continuance request, and to hear Case No. 16365 as scheduled.

UNFINISHED BUSINESS

Case No. 16357

Action Requested:

Variance of the required side yard from 10' to 5'6" - **Section 403. BULK AND AREA REQUIREMENTS FOR THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 5126 East 107th Place South.

Presentation:

The applicant, **Robert Acklyn**, 5126 East 107th Place, was not present.

Comments and Questions:

Mr. Jones informed that the applicant called the INCOG office and requested that Case No. 16357 be withdrawn. He advised that the Mr. Acklyn is no longer in need of the relief requested.

Protestants:

Protestants were in attendance.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **WITHDRAW** Case No. 16357 as requested.

MINOR VARIANCES AND EXCEPTIONS

Case No. 16360

Action Requested:

Minor Variance of the front setback from 35' to 29' to permit an existing structure - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 2445 East 24th Street.

Presentation:

The applicant, **Thomas Tobias**, 1319 East 35th Street, stated that the house in question was recently sold, and it was discovered that the existing porch was constructed over the required setback line. A plat of survey (Exhibit A-1) was submitted.

Comments and Questions:

In response to Mr. Bolzle, the applicant replied that the house was constructed over 40 years ago.

Mr. Doverspike asked if the porch is covered, and the applicant informed that the porch is covered, but the sides are open.

In reply to Mr. Doverspike, Mr. Jones advised that the zoning setback requirement is 30' at this location, and the applicant is only in need of a variance of 1'.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Minor Variance** of the front setback from 30' to 29' to permit an existing structure - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per survey submitted; finding that the porch of the existing dwelling was constructed over the setback approximately 40 years ago; and finding that approval of the request will clear the title, and will not be detrimental to the neighborhood; on the following described property:

Lot 9, Block 1, Magee Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16362

Action Requested:

Variance of the required setback from the centerline of the abutting streets to permit a fence within the street right-of-way, and a variance to permit a 6' high fence in a front yard and yards abutting a public street - **Section 210.B.3. Permitted Obstructions in Yards and Section 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 6, located southwest corner of South Owasso Avenue and East 57th Place South.

Presentation:

The applicant, **Lumberman's Investment Corporation**, 301 Congress, Austin, Texas, 78701, was represented by **Tom Stewart**, who requested permission to construct a decorative wrought iron fence around the street frontage perimeter of the property. He informed that the 6' fence will extend into the City easement, which is being reviewed by the City. A plot plan (Exhibit B-2) and photographs (Exhibit B-1) were submitted.

Comments and Questions:

In reference to the submitted photographs, Mr. Stewart pointed out that there are other fences in the area that are similar to the one in question.

Mr. Jackere advised that the Traffic Engineering Department has determined that the installation of a fence at the proposed location will not create a traffic problem.

Mr. Doverspike remarked that he site-checked the area and agreed that the fence would not have a negative impact on traffic flow.

Protestants: None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of the abutting streets to permit a fence within the street right-of-way; and to **APPROVE** a **Variance** to permit a 6' high fence in a front yard and yards abutting a public street - **Section 210.B.3. Permitted Obstructions in Yards and Section 215. STRUCTURE SETBACK FROM ABUTTING STREETS** - Use Unit 6; per plan submitted; subject to City Council approval; finding that there are similar fences in the immediate vicinity, and the installation of the proposed wrought iron fence will not be detrimental to the area, or have a negative impact on traffic flow; on the following described property:

Case No. 16362 (continued)

All of Block 3, Riverside South Complex, City of
Tulsa, Tulsa County, Oklahoma.

Case No. 16363

Action Requested:

Special Exception to permit two tents for produce and horticultural sales in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2, located 7102 South Memorial Drive.

Presentation:

The applicant, **Russell Reynolds**, 9549 South 94th East Avenue, was represented by **Roy Johnsen**, 201 West 5th Street, who requested that his client be permitted to operate a produce and horticultural business at the above stated location. He informed that a portable building, which houses a Tropical Snow business, is also located on the lot. Mr. Johnsen stated that sufficient parking is available; however, the Code does not establish a numerical parking requirement for tent sales. He informed that the days and hours of operation for the produce and horticultural sales will be Sunday through Saturday, 8 a.m. to 8:30 p.m., June through September. Mr. Johnsen stated that Christmas tree sales will be conducted on the lot from November 25 through December 25th.

Comments and Questions:

Mr. Doverspike stated that he would be amenable to a temporary two-year approval to determine if the use is compatible with the development in the area.

Protestants:

None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit two tents for produce and horticultural sales in a CS zoned district - **Section 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2; per plan submitted; subject to the approval being for two years only (1993 & 1994); subject to days and hours of operation for 1993 being being Sunday through Saturday, 8 a.m to 8:30 p.m., June 8 through October 5 and November 25 to December 25; and subject to days and hours of operation for 1994 being being Sunday through Saturday, 8 a.m to 8:30 p.m., June through September and November 25 to December 25; finding the

Case No. 16363 (continued)

temporary use to be compatible with the area; on the following described property:

The east 217.40' of the north 208.70' of Section 11, T-18-N, R-13-E, of the IBM, City of Tulsa, Tulsa County, Oklahoma, less dedicated street right-of-way.

Case No. 16364

Action Requested:

Special Exception to allow an increase in the FAR in an OL zoned district from 30% to 34% to permit a lot split - **Section 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS** - Use Unit 11, located northwest corner of East 49th Street and South Lewis Avenue.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, informed that he is representing Western National Bank, which is to become a part of Bank IV. He explained that the transaction will separate the ownership of the buildings and create four lots. Mr. Norman stated that additional construction will not occur on the property. He pointed out that the drive-thru facility has a FAR of 2%, which does not require Board action, and the remaining three lots will have a 34% FAR. He added that a FAR of 30% was previously approved in 1979. A plat (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Doverspike asked if the drive-thru facility has access to South Lewis Avenue, and Mr. Norman replied that it has frontage on 49th Street, and does not require frontage on Lewis to qualify for the lot split.

Protestants:

Allen Ormiston, 2246 East 48th Street, stated that he is concerned with an increase of structures on the lot, which will cause increased traffic circulation in the neighborhood. Mr. Ormiston informed that his property abuts the subject tract, and he is concerned with maintaining his property value.

Mr. Bolzle explained that there will be no additional construction on the site, and no increase in parking.

Case No. 16364 (continued)

Board Action:

On MOTION of S. WHITE, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to allow an increase in the FAR in an OL zoned district from 30% to 34% to permit a lot split - **Section 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS** - Use Unit 11; per plat submitted; finding that there will be no additional construction; and finding that the tract will be split into four separate lots, each containing one structure; and finding that approval of the special exception will not be detrimental to the area; on the following described property:

Lot 1, Block 1, Western National Bank, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and Lot 1, Block 1, Western Financial Center, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

Case No. 16365

Action Requested:

Special exception to allow an office (Use Unit 11 and/or Use Unit 5 - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5/11, located 1432 South Troost.

Comments and Questions:

Mr. Bolzle informed that he will abstain from hearing Case No. 16365.

Presentation:

The applicant, **Charlie Barrett**, Tulsa Angel Society, requested permission to continue office use in a residential dwelling (Exhibit E-1), which is the home of one of the Board of Directors for the organization. Mr. Barrett stated that the complaints concerning the use of the property probably stemmed from problems other than those caused by the Angel Society. The applicant stated that food baskets are prepared on the subject property and needed articles are distributed to the poor. In regard to parking, Mr. Barrett informed that he has made arrangements for additional parking on a nearby parking lot. Letters (Exhibit E-4) and a petition of support (Exhibit E-5) were submitted.

Case No. 16365 (continued)

Comments and Questions:

Code Enforcement information (Exhibit E-3) was submitted.

Ms. White asked Mr. Barrett if the parking agreement for off-site parking is verbal or written, and he replied that he has a verbal agreement, but the owner is amenable to signing a written agreement.

Mr. Jackere asked if parking is available on the subject property, and the applicant stated that there is a long driveway for parking, and additional spaces will be installed on the lot.

Mr. Doverspike inquired as to the hours of operation, and Mr. Barrett stated that the organization operates from 9 a.m. to 9 p.m., Monday through Friday and 9 a.m. to noon on Saturday.

In response to Mr. Doverspike, Mr. Barrett stated that there are usually six or seven workers on the premises, and occasionally a family will visit the office for assistance.

Mr. Doverspike inquired as to the number of rooms dedicated to office use, and the applicant stated that there are twelve rooms in the house and two are used strictly for offices.

Mr. Jackere asked if produce and meat are brought in and distributed daily, and the applicant answered in the affirmative.

Mr. Jackere asked if there is a garage on the property, and the applicant stated that canned goods are stored in the garage, and produce is either stored in the refrigerator, or removed from the property.

Protestants:

Larry Croft, 1415 South Trenton, remarked that he is supportive of the applicant's ministry; however, the neighborhood is struggling to maintain its identity. He pointed out that the business will be detrimental to the area, and asked the Board to deny the application.

Mr. Doverspike asked Mr. Croft if there are specific incidents that have caused problems for the neighborhood, and he replied the operation generates a great deal of garbage, which accumulates in the alley. He added that there is an increased number of individuals visiting the dwelling.

Case No. 16365 (continued)

Michael Lewis, 1427 South Trenton, stated that he has witnessed the dumping of trash in dumpsters other than the one belonging to the applicant. He pointed out that parking in the neighborhood is limited, and those individuals involved in the ministry infringe on parking reserved for others.

Mike Roberts informed that he operates a print shop at 15th and Trenton, and pointed out that there is an existing traffic problem in the area, and suggested that the property in question remain residential.

Marty Sellers stated that she lives next door to the property in question and, although she is supportive of the community service, would like to preserve the integrity of the neighborhood. She pointed out that there is an existing parking problem in the neighborhood, and street parking is only permitted on the west side of Troost. A letter of opposition (Exhibit E-2) was submitted.

Shirley Cantrell, 1411 South Troost, stated that traffic in the residential area has increased since Mr. Barrett's organization has occupied the subject property, and requested that the use be denied. Ms. Cantrell stated that parking is permitted on her side of the street, and her driveway is often blocked by delivery trucks.

Applicant's Rebuttal:

Mr. Barrett stated that it is the intent of his organization to assist people in the Tulsa area. He pointed out that there are other businesses on Troost. The applicant explained that heavy traffic in the neighborhood is caused by the location of the exit from the Broken Arrow Expressway, and the fact that it is convenient for motorists to drive down Troost to get to other businesses in the area.

Additional Comments:

Ms. White asked if the dumpster on the property is a commercial type container, and the applicant answered in the affirmative.

Mr. Gardner commented that office use is permitted in an RM-2 zoned area, with Board of Adjustment approval. He pointed out that the Board must determine what type of service is provided, and what portion of the Code addresses the use.

In response to Ms. White's question concerning the Cherry Street Study, Mr. Gardner informed that the Study does address preservation of the residential neighborhood, as opposed to making it a nonresidential area.

Case No. 16365 (continued)

Mr. Doverspike stated that, due to the nature of the operation, he finds the use to be more like a Use Unit 5 operation. He pointed out that office use could be compatible with the residential neighborhood; however, the receiving and distribution activities seem to be too intense for the area.

Ms. White remarked that she finds the described use to be a Use Unit 5 activity, which would not be compatible with the residential neighborhood.

Mr. Doverspike informed that he is supportive of Mr. Barrett's organization, and could support a future application for office use at this location if the distribution activity was moved to another location.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-1 (Doverspike, S. White, T. White, "aye"; no "nays"; Bolzle, "abstaining"; Chappelle, "absent") to **DENY** a **Special Exception** to allow an office (Use Unit 11 and/or Use Unit 5 - **Section 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 5/11; finding the use to be a Use Unit 5 community service activity; and finding the described operation (receiving and distribution) to be too intense for the residential neighborhood; on the following described property:

Lot 7, Block 1, Clark's Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16366

Action Requested:

Minor Special Exception of the required 25' front yard to 23' to permit an existing encroachment of a new dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 5509 East 86th Street South.

Presentation:

The applicant, **Ronald Sumner**, 2204 West Memphis, Broken Arrow, Oklahoma, stated that a new home was constructed over the lot line, due to an error in measurements. A plat of survey (Exhibit F-1) was submitted.

Comments and Questions:

Mr. Bolzle inquired as to the date of completion, and the applicant stated that the house was completed approximately 45 days ago and has not been sold.

Case No. 16366 (continued)

Protestants:

Blake Givens stated that he is representing an abutting property owner, who is opposed to the 2' encroachment because the structure blocks the view from his home. He added that the slab and air conditioning unit also encroach approximately 3' into the required side yard setback.

Mr. Bolzle advised that the Board can only consider the requested relief from the required front yard setback at this time.

Board Action:

On MOTION of T. WHITE, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a Minor **Special Exception** of the required 25' front yard to 23' to permit an existing encroachment of a new dwelling - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per plat of survey submitted; finding that the dwelling is existing, and relief is needed to clear the title; and finding that approval of the request will not be detrimental to the area; on the following described property:

Lot 13, Block 6, Southern Point Second, Block 6 thru Block 9, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 16375

Action Requested:

Amended site plan approval.

Presentation:

The applicant, David Thompson, 8232 East 38th Street, stated that a carport is proposed, and requested permission to amend a previously approved site plan (Exhibit G-1).

Comments and Questions:

Mr. Bolzle asked if the carport will reduce the number of parking spaces, and the applicant stated that the parking will remain the same.

Protestants: None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 3-0-1 (Bolzle, Doverspike, T. White, "aye"; no "nays"; S. White, "abstaining"; Chappelle, "absent") to **APPROVE** the amended site plan as submitted.

Case No. 16375 (continued)

Lot 4 and west 15' Lot 3, Block 1, Terrace Park
Addition, City of Tulsa, Tulsa County, Oklahoma.

Election of Officers

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, S. White, T. White, "aye"; no "nays"; Doverspike, "abstaining"; Chappelle, "absent") to **ELECT** Terry Doverspike to the office of chairman for the City Board of Adjustment.

On **MOTION** of **S. WHITE**, the Board voted 3-0-1 (Bolzle, Doverspike, S. White, "aye"; no "nays"; T. White, "abstaining"; Chappelle, "absent") to **ELECT** Tom White to the office of secretary for the City Board of Adjustment.

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **ELECT** Carlos Chappelle to the office of vice chairman for the City Board of Adjustment.

There being no further business, the meeting was adjourned at 2:27 p.m.

Date Approved

June 22, 1993


Chairman