

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 789
Tuesday, February 8, 2000, 1:00 p.m.
Aaronson Auditorium
Tulsa City/County Library
400 Civic Center, 1st Floor

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Dunham, Vice Chair Cooper Turnbo White, Chair Perkins		Beach Stump Butler	Jackere, Legal Ackermann, Zoning Official Parnell, Neighborhood Insp. Ballentine, Neighborhood Insp.

The notice and agenda of said meeting was posted in the Office of the City Clerk on Monday, February 4, 2000, at 09:01 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair, White called the meeting to order at 1:05 p.m.

..*.*.*.*.*.*.*.*.

MINUTES:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of January 11, 2000 (Meeting No. 787), with amendments as noted.

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of January 25, 2000 (Meeting No. 788), with amendments as noted.

..*.*.*.*.*.*.*.*.

Case No. 18626

Action Requested:

Appeal from the decision of the Neighborhood Inspector that a nightclub will not meet the off-street parking requirements at this location, 3340 S. Peoria.

Presentation

Mr. Beach stated that Mr. Roy Johnsen reviewed this application, determined the need for more relief and requested a continuance to allow for additional notice.

Janine Van Valkenbergh, 201 W. 5th Street, Suite 501, attorney standing in for Roy Johnsen, requested a continuance of two weeks to the meeting on February 22, 2000. She stated that Mr. Johnsen spoke with the protestant's attorney, Mr. Moody, and with a representative of the homeowners' association, regarding a continuance. They had no objection to a continuance.

Interested Parties/Protestants:

All parties agreed to a continuance.

Board Action:

On **MOTION** of Cooper, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **Continue** Case No. 18626 to February 22, 2000, for the following described property:

All the N 49.5' of Lot 19 except the E 25' thereof, and an undivided 1/3 interest in Lot 21, all in Burgess Acres Addition, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 18646

Action Requested:

Special Exception to allow a drive-in restaurant in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 18, located W of NW/c E. 41st St. & Garnett.

Presentation:

Mr. Beach stated that the applicant has withdrawn this case.

Interested Parties/Protestants:

None.

Board Action:

No action required for the following described property:

A tract of land that is part of Lot 1, Block 1, Crossbow Center Addition, City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows, to-wit: Beg. at a point that is the SW/c of said Lot 1; thence N 00°04'44" W along the Wly line of said Lot 1 for 150'; thence N 89°54'58" E and parallel with the Sly line of said Lot 1 for 200'; thence S 00°04'44" E and parallel with the Wly line of said Lot 1 for 150' to a point on the Sly line of said Lot 1; thence S 89°54'58" W along the Sly line of said Lot 1 for 200' to the POB

UNFINISHED BUSINESS

Case No. 18588

Action Requested:

Special Exception to permit off-street parking in a RM-2 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 10. Variance of required setback from centerline of Carson from 50' to 35'. SECTION 1302.B. SETBACKS, located SE of E. 15th St. & Carson.

Presentation:

Robert Nichols, 111 W. 5th St., came representing the applicant, and American Association of Petroleum Geologists at 1444 S. Boulder. He stated that this case was continued to today for application requesting off-street parking for the association's continued occupation of their worldwide headquarters at 15th and Boulder. He informed the Board that his client met with the neighborhood association last week. He now is presenting a revised site plan for the use and occupancy of the subject property for a parking lot. The new plan includes landscaping, some fencing and a gate.

Interested Parties:

Charlotte and David Hopkins, 1515 S. Carson Ave., appeared to request a continuance of this case, to give the neighborhood association an opportunity to see the site plan.

Comments and Questions:

Ms. Turnbo asked if the applicant would be willing to meet with the neighborhood association again to show the revised site plan. Mr. Nichols replied that he would be willing. Ms. Turnbo asked Ms. Hopkins if they have a good attendance for their association meetings. Ms. Hopkins replied that they have very good attendance. Mr. White asked Ms. Hopkins if the revised site plan is in agreement with the details discussed with Mr. Nichols in the previous meeting. Ms. Hopkins explained that they are just now seeing the revised plan for the first time.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **Continue** Case 18588 to the meeting of February 22, 2000, to allow the neighborhood association to review the revised site plan, for the following described property:

The N 20' of Lot 10 & all of Lot 11, Block 2, Stonebraker Heights Addition to the City of Tulsa, Tulsa County, State of Oklahoma

Case No. 18617

Action Requested:

Appeal from the decision of an Administrative Official that the subject property is in violation of the certificate of occupancy and zoning clearance of "Restaurant" Use Unit 12. SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL, located at the SW/c E. 35th Pl. & S. Peoria.

Presentation

Buddy Edwards, 100 W. 5th St., came representing the applicant, David Cameron. He stated that he needs clarification regarding the determination by Mr. Page, that there is a violation of the occupancy certificate, that it was an adult establishment (U.U. 12.A) rather than a restaurant (U.U. 12). He states the applicant's position, that the establishment is a restaurant with an accessory bar.

Comments and Questions:

Ms. Perkins commented that the sales of 3.2% beer and liquor amounts to over 70% of the establishments' revenue. Mr. Edwards acknowledged that this is true.

Protestants:

Jack Page, stated that he is a Code Official and the Director of Development Services for the City of Tulsa Public Works Department, 110 S. Hartford, Suite 300. He stated that it is his opinion that the subject establishment is not a restaurant with accessory bar, but it is a bar with an accessory restaurant. In the first zoning permit application, the certificate of occupancy specifically states it does not include approval of a Use Unit 12a (Adult Entertainment Establishment). Mr. Page stated that from the beginning, his office expressed concerns to the applicant because of the type of advertisement used for the establishment. It has since been determined by the A.B.L.E. Commission, that the liquor sales exceed 70% of the food sales, which requires that persons under 21 years of age be restricted from the establishment. Mr. Page stated that when Mr. Corley was advised of this, no appeal was made. Mr. Page submitted an advertisement from Urban Tulsa Weekly, which he indicated is typical of tavern or bar type establishments, and does not advertise food.

Nancy Apgar, president of the local neighborhood association, stated the neighbors' complaints of loud noise and close proximity of church property.

Comments and Questions:

Mr. Cooper asked Ms. Apgar if the noise is the main complaint from the neighborhood, which she affirmed.

Protestants:

Carol Ashcraft, 1129 E. 35th Pl., stated complaints of violation of 300' space from nearby church, parking on the street, loud noise from bands outside, obstruction of sidewalk.

Other neighbors appeared and voiced the same complaints as above.

Rebuttal:

Mr. Edwards stated that the establishment would discontinue the outdoor music. He maintains that the primary use is the restaurant and that children are not allowed because they would have to walk through the bar area to the restrooms.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **Uphold** the decision of the Administrative Official that the subject property is in violation of the certificate of occupancy, on the following described property:

The E 110' of Lot 5 less the N 30' of the W 20' of the E 110' of Lot 5, and less the E 10' of Lot 5, Block 3, Peoria Gardens Addition Amended, City of Tulsa, Tulsa County, Oklahoma

NEW APPLICATIONS

Case No. 18631

Action Requested:

Special Exception to allow Use Unit 15 in a CS zoned district for alternator and starter repair business. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15. Waiver of the landscape requirements. SECTION 1002. LANDSCAPE REQUIREMENTS, located at 2604 E. Apache.

Mr. White, let it be known that he was abstaining from voting on this case. Mr. Dunham to act as Chair.

Presentation

Mike Richardson, 1309 E. Pine, stated he purchased the subject property with the understanding that it is zoned for commercial. After the purchase he discovered that he needed a special exception to allow Use Unit 15 for his business. He does not object to landscaping his property, but to hiring a landscape architect.

Comments and Questions:

Ms. Turnbo asked the staff if the applicant can draw his own landscape plans and bring to Board for approval. Staff stated that the applicant could get plans approved by the Board. Mr. Richardson stated that he has landscape plans.

Protestants:

None.

Denied waiver of landscape **on:**

On **MOTION** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstains"; no "absences") to **APPROVE** the *Special Exception* to allow use Unit 15 in a CS zoned district for alternator and starter repair business, and that applicant can

provide his own landscape plans and take the plan INCOG staff for certification, regarding the following described property:

A tract of land that is part of the N/2 of N/2 of NW of Section 29, T-20-N, R-13-E of the IBM, City of Tulsa, Tulsa County, Oklahoma, said tract of land being described as follows, to wit: starting at the NE/c of NW of said Section 29; thence S 88°56'16" W along the Nly line of the NW for 1190'; thence S 1°04'54" E and parallel with the Wly line of Section 29 for 50' to the POB of said tract of land; thence continuing S 1°04'54" E and parallel with the Wly line of Section 29 for 358.68'; thence S 47°28'29" W and parallel with the Nly right-of-way line of the Atchison, Topeka and Santa Fe Railway for 213.45'; thence N 1°04'54" W and parallel with the Wly line of Section 29 for 465.03'; thence N 43°56'26" E for 49.48'; thence N 88°56'16" E and parallel with the Nly line of the NW of Section 29 for 125' to the POB of said tract of land

*****.

Case No. 18632

Action Requested:

Variance to permit a setback from East 47th Street North from the required 45' to 30'. SECTION 402.B.1.c. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6. Variance of the maximum rear yard coverage of 20% to 21.6% to permit a detached garage in an RS-3 district. SECTION 210.B.1.5. YARDS, Permitted Obstructions in Required Yards, located at 4732 N. Birmingham Pl.

Presentation

The applicant, **Bryan Liggins**, 4732 N. Birmingham Pl., stated he hired a contractor to build a detached garage. The contractor did not get a permit. Mr. Liggins can no longer contact him. The foundation has been laid. Mr. Liggins contacted the company that poured the concrete, and they told him that they pulled a permit. Mr. Liggins also pointed out that to comply with the spacing requirement would place the structure over a gas line.

Interested Parties/Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the **Variance** to permit a setback from East 47th Street North from the required 45' to 30' and a **Variance** of the maximum rear yard coverage of 20% to 21.6% to permit a detached garage in an RS-3 district per plan, finding the hardship to be the configuration of the lot and location of a gas line for the following described property:

Lot 32, Block 4, Robinwood, City of Tulsa, Tulsa County, Oklahoma

*****.

Case No. 18639

Action Requested:

Special Exception to permit duplex use in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 7. Variance of the minimum lot area of 9,000 square feet to 7,500 square feet. SECTION 404. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS. located at the SW/c E. 27th Pl. & Marion Pl.

Presentation

Mr. Beach stated that staff comments for this case should be stricken.

John Roy, 9018 E. 38th Street, appeared representing the East Tulsa/Mingo Valley Homeowner's Association. He read conditions the association would like to add if the application is granted:

- 1.) Require all-weather surface to any areas that trucks will drive on
- 2.) That there be no outside storage of inoperative vehicles, trucks, salvage items, junk, and parts.

Rebuttal:

Mr. Warner stated that Mr. Timmons has cleared the property and has every intention of keeping it clear of unsightly outside storage. He indicated that Use Unit 23 would be compatible with the truck stop on 129th E. Ave.

Comments and Questions:

Mr. Cooper asked Mr. Warner to describe the meaning of a trucking company.

Charles Ashton, 1221 S. Darlington, came before the Board to explain what type of business would be on the subject property. He stated that they are a chemical transport out of Omaha, Nebraska. He called attention to pictures submitted of their white truck tractors that pull 43' stainless steel trailers and no other trucks. Mr. Ashton stated that the company wants to construct two bay terminals to do light maintenance on tractors and trailers. There will be no other equipment, trucks, or storage tanks stored on the property. Mr. Dunham asked if there would be any objection to the conditions suggested by the neighborhood association. Mr. Ashton replied there would not be any objection.

Comments and Questions:

Ms. Turnbo asked Mr. Warner how long debris was stored on the rear of the property before the City registered a complaint. He replied from six months to one year. Mr. Cooper asked the staff for the requirements regarding all-weather parking. Mr. Stump replied that to park or store a motorized vehicle, it must be on an all-weather surface.

Applicant:

The applicant withdrew request for the Special Exception to allow a temporary off-site construction facility in a CG district.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE**, a **Special Exception** to allow U.U. 23 (trucking establishment) in a CG zoned district with the conditions that applicant not be permitted more than three bays for repair, that all-weather surface be acquired wherever trucks are driven or stored, and no storage of inoperative vehicles and a **Variance** of the setback from an abandoned freeway service road from 50' to 15', finding the hardship to be the shape, size and location, for the following described property:

A tract of land located in Lots 3 and 4, of Section 4, T-19-N, R-14-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Beg. at a point 75' N and 572.41' E of the SW/c of said Lot 4; thence E and parallel to the S line of said Lot 4, a distance of 250' to the NWly right-of-way line of US-66 Bypass, thence N 69°37'42" E a long said right-of-way line a distance of 334.13'; thence NEly along said right-of-way line and along a curve to the right with a radius of 1969.83' a distance of 499.95'; thence N 74°24'53" E along said right-of-way line a distance of 81.23'; thence N 53°09'23" W a distance of 486.07' to a point on the N line of said Section 4; said point being 1364' W of the NE/c of said Lot 3; thence W along the N line of said Section 4 a distance of 529.50'; more or less, to a point that is 772.41' E of the NW/c of said Section 4; thence S a distance of 200'; thence W a distance of 200'; thence S a distance of 411.7' to the POB; and that parcel of land beg. at a point 672.41' E of the NW/c of Lot 4, Section 4, T-19-N, R-14-E, thence S 200' to a point; thence E 100' to a point; thence N 200' to a point; thence W

100' to the POB; less and except the W 143.69' of the S 411.7' of said tract and less and except the W 43.69' of the N 200' of said tract

Case No. 18642

Action Requested:

Variance of required number of parking spaces from 35 to 20 for a restaurant in a CH district. SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements. Variance of Section 1301.D. to permit required parking on an adjoining lot under common ownership. SECTION 1301.D. GENERAL REQUIREMENTS, located at 3148 E. 11th St.

Presentation:

The applicant, Robert D. Matthews, 1617 S. Troost, deferred to his contractor, Gary Lind, Rt.1 Box 124, Beggs, Oklahoma 74421 for the presentation. Mr. Lind stated he was unsure if there was ever an occupancy permit pertaining to the use of former businesses on the subject property. He asks for permit to park on an adjoining lot under common ownership. He asked for clarification of the requirements pertaining to handicapped parking allowance and a loading berth.

Comments and Questions:

Mr. Dunham asked about the hours of operation for the restaurant. Mr. Lind replied that the diner hours will be 24-Hour, 7 Days per Week. Mr. Dunham asked about parking space requirements. Mr. Beach stated that the 3,477 square feet required 35 parking spaces. Mr. Cooper asked how many more spaces would be provided with the tie-agreement. Mr. Lind stated there would be another 16 – 20 spaces.

Interested Parties/Protestants:

None.

Board Action:

On **MOTION** of Cooper, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **Continue** a ***Variance*** of required number of parking spaces from 35 to 20 for a restaurant in a CH district to the BOA meeting on March 14, 2000, and to **APPROVE** a ***Variance*** of Section 1301.D. to permit required parking on an adjoining lot under common ownership, finding lot sizes to be small for the following described property:

Lot 1 & 2, Block 1, Pilcher Summit Addition, City of Tulsa, Tulsa County, Oklahoma

Case No. 18643

Action Requested:

Special Exception to permit elderly housing in an OL and CS zoned districts. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS and SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 8, located at the NW/c E. 7th St. & Memorial.

Presentation:

The applicant, Ricky Jones, with Tanner Consulting at 2202 E. 49th St. presented the case. He stated that the architect reduced the size of the building, re-worked the parking spaces, and increase setbacks on the north and west.

the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, for the following described property:

The E/2 of SE of SW of SE, Section 4, T-19-N, R-14-E, of the IBM, City of Tulsa, Tulsa County, Oklahoma

Case No.18648

Action Requested:

Special Exception to allow a transitional living center in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2, located at 2827 N. Garrison.

Presentation:

The applicant, **Ken Brooks**, 2730 N. Denver, presented the case. He stated that his intent is to provide a facility to reach out to homeless and chemical dependent people to assist them in re-establishing their lives.

Comments and Questions:

Ms. Turnbo asked if the church is state certified or licensed. Mr. Brooks stated that they are not. Mr. Stump commented that it appears to be a transitional living facility, which requires certification or license.

Protestants:

Ira White, 3235 N. Garrison, stated that there is no need for a transitional living facility in the area. He submitted a petition with signatures from the neighbors. He does not want that element of society drawn to the neighborhood.

Other neighbors appeared to protest the action for similar reasons listed above.

Rebuttal:

Mr. Brooks stated that the purpose for this facility is to improve the neighborhood, and the lives of those who live there.

Board Action:

On **MOTION** of **Perkins**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** the **Special Exception** to allow a transitional living center in an RS-3 district, finding it will not be in harmony with the spirit and intent of the Code, and would be injurious to the neighborhood or otherwise detrimental to the public welfare, for the following described property:

Lots 5 & 6, Block 7, Standard Heights, City of Tulsa, Tulsa County, Oklahoma

Case No. 18644

Action Requested:

Variance of the setback from centerline of Lewis from 50' to 48.6' for existing sign. SECTION 1221.C.7. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs – Use Unit 21, located at 2626 N. Lewis.

Presentation:

The applicant is not present. Mr. White described the subject property.

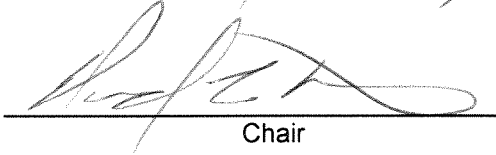
Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the setback from the centerline of Lewis from 50' to 48.6' for existing sign, finding the hardship to be the offset of the new roadway from center line of the right-of-way, and that the short space requested will not cause substantial detriment to the public good or impair the purposes, spirit and intent of the Code, or the Comprehensive Plan, for the following described property:

N 374', S 810', E 340', SE SE, Section 19, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, less and except right-of-way on Lewis on east side

There being no further business, the meeting wise adjourned at 4:35 p.m.

Date approved: MARCH 14, 2000


Chair