

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 793
Tuesday, April 11, 2000, 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

Dunham, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

Beach
Stump
Butler

Prather, Legal
Ackermann, &
Parnell
Zoning Official

The notice and agenda of said meeting was posted in the Office of the City Clerk on Thursday, April 6, 2000, at 03:45 p.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 1:00 p.m.

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MINUTES:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (Dunham, Turnbo, White, Cooper, Perkins "aye"; no "nays"; "no abstentions"; no "absences") to **APPROVE** the Minutes of March 14, 2000 (No. 791).

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Case No. 18712

Action Requested:

Special Exception pursuant to the provisions of Section 902 allowing the office use of the recreational vehicle trailer for the lessee's business operations. SECTION 902. ACCESSORY USES PERMITTED IN INDUSTRIAL DISTRICTS – Use Unit 23; and a Special Exception pursuant to the provisions of Section 222 permitting a gravel surface on the drive which serves the recreational vehicle trailer/office. SECTION 222. MOTORIZED VEHICLES, located at 2315 N. Yale Ave.

Presentation:

Mr. Beach stated that William D. LaFortune made a timely request for continuance to May 9, 2000. Mr. Beach stated it will need new advertisement.

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 ***Continuance*** to hearing date May 9, 2000 for the following described property:

Lots 1 and 2, Block 1 and Lot 5, Block 2, S R Lewis Addition to the City of Tulsa,
Tulsa County, Oklahoma

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UNFINISHED BUSINESS

Case No. 18670

Action Requested:

Special Exception to waive the time restriction from one-year to permanent for a mobile home. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located at 2814 E. 39th Ct. N.

Presentation

The applicant, **Ricky Scott**, 2814 E. 39th Ct. N., requested a waiver of the time limit to keep his mobile home on the subject property permanently.

Comments and Questions:

None.

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** a **Special Exception** to waive the time restriction from one-year to permanent for a mobile home on the following described property:

Lot 14, Block 3, Lakeview Heights II, City of Tulsa, Tulsa County, Oklahoma

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Case No. 18682

Action Requested:

Appeal of Building Inspector's decision that this proposed liquor store is over 300' from an existing liquor store. SECTION 1214.C.3. USE UNIT 14. SHOPPING GOODS AND SERVICES, Use Conditions, located at 2616 N. Cincinnati.

Mr. White stated he would abstain, in this case.

Presentation

Mike Barnum, 2549 N. Cincinnati, made appeal to the Building Inspector's decision regarding the zoning clearance issued to Robert Hoover, 2616 N. Cincinnati for a liquor store. He stated that the use-by-right exists with this CS zoned site. He asked for a clarification of the measurement of 300' from another liquor store, in Title 42 Section 1214C.3. Mr. Barnum also asked that the zoning clearance approval for 2616 N. Cincinnati be rescinded. He stated that denial of this appeal would be the equivalent of granting a variance. He further stated that there is nothing peculiar to this property to merit special zoning, and no issues of hardship have been raised.

Comments and Questions:

Mr. Dunham asked if a liquor store is considered a use unit 12A. Mr. Stump replied that it does not apply to liquor stores, and is a use unit 14. Mr. Stump clarified that the section of the code that provides for a 300' spacing is 1214C.3. Mr. Ackerman stated that the least restrictive method of measurement, from door to door, was used to measure the distance in this case. Mr. Prather stated that in zoning control the restriction on the use of property is measured by the least restrictive measure. Mr. Prather stated that the Board has the option to interpret this code. Mr. Ackerman added that for bars the method of measurement is provided specifically, but for this use the least restrictive method of measurement is used.

Interested Parties:

Robert Hoover, 2616 N. Cincinnati, stated he is the owner of the property at this address, and his intention is to open a liquor store there. He stated that he went to INCOG to determine if it met the 300' spacing requirement, and it was approved.

Applicant's Rebuttal:

Mr. Barnum stated that the City Zoning office gave approval. The measurement was not made by the City, but by Mr. Hoover. The approval was based on a letter that Mr. Hoover submitted stating the 300' spacing existed.

Comments and Questions:

Mr. Dunham asked how the spacing would be measured between a liquor store and a church. Mr. Ackerman stated that there is not a requirement in the zoning code for spacing between a liquor store and a church. Mr. Stump interjected that there had been a requirement in the state law until last year. He added that it was dropped and he mentioned it to the Able Commission and this action was unintentional and it is being re-instituted this year. Mr. Stump stated he was not clear on the method of measurement. Mr. Barnum stated that a Senate bill pending in the State House of Representatives specifies the 300' to be measured from the church property to the building wall.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; White "abstained"; no "absences") to ***Uphold the decision*** of the Building Inspector, on the property described as follows:

N 50' S 195' E 147' SE/4 SE/4 of Section 23, T-20-N R-12-E of the IBM, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18704

Action Requested:

Variance of Section 403 of the 50' setback requirement from centerline of East 32nd Place to 40' for replacement of carport. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located at 1432 E. 32nd Pl.

Presentation

Michael Hackett, 1432 E. 32nd Pl., stated he purchased a home on this short dead-end street on the west side of Zink Park. He described the appearance of the street as like a country lane, with a narrow roadbed of about 18 to 19' wide, and about ten houses along the street on either side. He stated the lots are fairly narrow, approximately 60' to 65' wide. He included that parking on the street is a problem, by people visiting the residences and park visitors. He added that he has a one-car carport, and needs parking for another car. Since they are adding to their house, they want to construct additional carport parking. He offered a letter of support from their neighbors.

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*** of Section 403 of the 50' setback requirement from centerline of East 32nd Place to 40' for replacement of carport, per plan submitted, finding the narrow lot and street to be the hardship, on the following described property:

Lot 3 and the W 20.5' of Lot 4, Block 4, Peoria Acres Subdivision, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18706

Action Requested:

Appeal from the decision of the neighborhood inspector in issuing a zoning violation notice to the subject property, located at 13521 E. 11th St.

Presentation

Roy D. Johnsen, 201 W. 5th St., Ste. 501, appeared for APAC Ok, Inc., owner of the subject property since July 1999. He listed complications and confusion regarding the property not being required to be platted before, and the requirement to construct paved parking, and a screening fence would result in the need for a building permit. Mr. Johnsen mentioned that when the concrete trucks are washed out, it flows into the pond, which is used as a retention pond that does not discharge. Mr. Johnsen's question is whether the zoning needs to be changed for the land with the pond. He stated that the appeal includes a request for time to comply with the Board's decision.

Protestants:

James Mautino, 14628 E. 12th St., appeared representing Tower Heights Homeowners Association. He submitted photos and old minutes. Mr. Mautino gave a history of previous owners and actions regarding this property. He mentioned that the property is in a flood plane and that they also have a lagoon for sewage in the flood plane. He indicated that the concrete plant is using a two-inch waterline in 21' of City right-of-way for their business without approval and tax-free. He also indicated that the washout chemicals are running off from the pond to a creek. He listed neighbor complaints of broken promises, excessive dust and noise pollution.

Comments and Questions:

Mr. Cooper asked Mr. Mautino if he is in agreement with the company's right to the use of the IM portion of the land. Mr. Mautino replied affirmatively.

Interested Parties:

Nancy Craten, 245 S. 120th E. Ave., appeared as President of Mingo Valley Neighborhood Association. She stated that she was present at the meeting of the concrete business and the neighbors as an observer. She stated that she heard promises made last spring, and the concerns of the neighborhood. Ms. Craten indicated that the promises that were made at that time were not kept. She stated that the need for such a company is increasing as east Tulsa continues to grow, but that the location is wrong for this type of business. She asked the Board to hold this business to the IM zone only.

Other long-time homeowners in the area came before the Board and stated complaints of noise pollution, and dust, similar to the above.

Applicant's Rebuttal:

Mr. Johnsen stated that the IM zoning of the batch plant is not in dispute. He added that a Use Unit 23 is permitted by right in an IL district, it permits a truck wash and storage not elsewhere classified, and does not require enclosure.

Special Exception to allow a manufactured home in an RM-2 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; and a Special Exception to allow it on the property permanently. SECTION 404.E. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located W of SW/c W. 11th St. & S. 49th W. Ave.

Presentation

Crystal Miller, 4916 W. 12th, stated she has owned this property for about eight years. She stated that she plans to put in a mobile home and make it her residence.

Protestants:

Mary Manus, 4916 W. 11th St., stated that she and her husband have owned the property for 37 years. She stated that there are no mobile homes in the neighborhood. She added that their experience with the last mobile home on the subject property was very negative, and they do not want to see a mobile home moved into the neighborhood.

Comments and Questions:

Mr. Dunham commented that previous Board hearing minutes state that a mobile was approved for the property at 4929 W. 11th, March 1997. Ms. Manus stated that one was moved in but no one ever lived there and a brand new A-frame house, which was constructed there, replaced it.

Applicant's Rebuttal:

Shirley Bledsoe, stated she is the applicant's mother-in-law. She stated that the neighborhood is across the levy from the river, so there are probably rats around. She remembers trailer houses in the neighborhood before. She stated that they can be junky or very nice, and the one the applicant wants to move in is very nice. She stated they would even be willing to put up a privacy fence.

Comments and Questions:

Mr. White mentioned that one letter of protest was received but there was no name or address given. Mr. White reminded the Board that Councilor Williams has requested that no mobile homes be approved in his district. Mr. Dunham pointed out that the subject property is in a fairly isolated area. Mr. White added that there are some mobile homes existing in the area.

Board Action:

On **MOTION** of **Dunham**, the Board voted 3-2-0 (White, Dunham, Perkins, "aye"; Turnbo, Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a manufactured home in an RM-2 zoned district; and a **Special Exception** to allow it on the property permanently, on the condition that it be subject to all required permits, permanent tie-downs and skirting, on the following described property:

Lot 2 less W 60' of N 100', Block 1, Vern Subdivision II, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18708

Action Requested:

Special Exception for Use Unit 2 use (convict pre-release center). SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2; and a Special Exception for spacing for other similar uses. SECTION 1202.C.7. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions, located at 1214 S. Baltimore.

Presentation

Kevin Coutant, 320 S. Boston, stated that he was representing 12 X 12, Inc., the owner and operator of the property. He stated that the subject property is at the end of Baltimore as it abuts the inner dispersal loop, which is functionally a dead end. He submitted photos of the facility. He stated that the facility has been operated as a convict pre-release center for a number of years. It is qualified for up to 35 clients, and the convicts have to qualify to live there. The convicts cannot be violent offenders, or sexual offenders, have qualified for a pre-release program and must have a documented need for drug or alcohol treatment. Mr. Coutant read the objectives of the program: 1) client will complete a 12-Step Recovery and Education Program; 2) be gainfully employed; 3) if appropriate have completed or be working on a GED; 4) have developed in writing, a recovery plan for independent living; 5) receive appropriate referrals for community support; 6) attend a minimum of six 12-Step support program meetings each week. He provided a number of letters of support. He stated that this is a request to obtain an extension of the special exception as the Board approved for the use of this property five years ago.

Comments and Questions:

Mr. Cooper asked Mr. Coutant to speak to the clients' performance as to violations or things that would raise the concern of administrative bodies that oversee this program. Mr. Coutant stated that they have no record of any problem with any neighbors concerning personal injury or property damage. There have been no objections by the neighbors in the last five years in regard to any matters that come within the scope of this application.

Protestants:

Jim Norton, president of the Downtown Tulsa Unlimited, 321 S. Boston, Suite 101, stated that Mr. Coutant is correct in his presentation of the facts. He stated that DTU is not in opposition to granting the five-year extension, for 35 clients, non-violent and non-sexual offenders for drug and alcohol treatment only. He added that they are aware of several public projects in this immediate area, some completed and others in planning that will be brought forth in connection with tourism and visitors task force, that will put substantial public investment in this

area in the next four or five years. He further stated that the DTU is putting everyone on notice that there may be some projects in the future that would influence them to object to a further extension after the five-year extension.

Jim Brackett, stated he is a shareholder in First Brackett Corporation, which controls the property to the west of the subject facility. He mentioned concern about a program for community sentencing to be located at 12 East 12th. He stated that the contracts are intertwined and the Department of Corrections could not explain the programs to him. He indicated that this is in direct violation to what the spirit of the 2600 square feet spacing is to be, and should be denied for that reason alone. He stated that the property owners have numerous concerns, and his corporation is the only private entity within the 300' that the applicant has to answer to. He listed complaints of unsightly trash containers in the public street and sidewalk, designated smoking areas at the subject facility near the public sidewalks, need for higher fences around the facility.

Ann Walker Brackett, shareholder in the properties to the west of the subject facility, and the owner of the W. L. Walker Company. She stated that her family has been in this area since the 1930's. She stated her long-term commitment to improving this area, without any Department of Corrections facilities.

Comments and Questions:

Mr. Coutant stated that loitering outside the facility is not permitted and clients are not allowed to have parked cars on the site. He stated that chain-link fencing is in place along the south boundary and a combination of fences along the north property line.

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 **Special Exception** for Use Unit 2 use (convict pre-release center); and a **Special Exception** for spacing for other similar use, for a period of five years, with the conditions of a limit of 35 non-violent, non-sexual offenders, for drug and alcohol treatment only, and have a contract with the Department of Corrections allowing 12 X 12 to refuse admission to any individual being convicted of sex crimes, assault and battery or any violent criminal activities, finding that the use in operation is compatible with the area, on the following described property:

S 35' of Lot 1 and all of Lot 2, Block 3, Oak Grove Addition, City of Tulsa, Tulsa County, State of Oklahoma, and the E/2 of adjacent alley

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Case No. 18709

Action Requested:

Variance of Section 403 Table 3 of the required 20' setback to 15' to add an addition to the house, per plan, finding the hardship to be the shape of the lot, on the following described property:

Lot 2, Block 2, Hunt's Subdivision, a re-subdivision of Lots 18 to 33, Block 5 and Lots 1 to 12 inclusive, Block 6, Robert Addition to the City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18711

Action Requested:

Special Exception as set forth in Section 701 to permit residential uses (Use Unit 7 - 8) in a CS Commercial District. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 7, 8; a Special Exception as set forth in Section 401 to permit office use (Use Unit 11) in an RM-2 Residential District. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11; a Special Exception as set forth in Section 401 to permit a community center (Use Unit 5) in an RM-2 Residential District. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Special Exception as set forth in Section 401 to permit a children's nursery (Use Unit 5) in an RM-2 Residential District. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5; a Variance of Section 403 of the 35' building height limitation in an RM-2 Residential District to permit a building height of 45'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; and a Variance of the requirements of Section 403 and Section 703 that bulk and area requirements are established on the basis of lot of record boundaries and in substitution thereof to provide that bulk and area requirements are to be established based on the perimeter boundaries of the project. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS and SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located at Latimer St. & Country Club Dr.

Presentation

Roy D. Johnsen, 201 W. 5th St., Suite 501, stated that this application involves the Osage Hills Apartment Project. He stated that Tulsa Housing Authority wants to demolish some of the older structures and rebuild and redevelop this project. He pointed out that part of the property is zoned RM-2 and part is zoned CS. He stated that in the CS district there will be some residential dwellings and in the RM-2 there will be a community care center, administrative offices, and medical services. He stated that the property has been platted but there are numerous lots, all owned by Tulsa Housing Authority, and they do not fit the configuration of buildings proposed in re-development. He explained that the applicant would like to be able to compute on the perimeter of ownership rather than on a per lot basis.

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** a **Special Exception** as set forth in Section 701 to permit residential uses (Use Unit 7 - 8) in a CS Commercial District; a **Special Exception** as set forth in Section 401 to permit office use (Use Unit 11) in an RM-2 Residential District; a **Special Exception** as set forth in Section 401 to permit a community center (Use Unit 5) in an RM-2 Residential District; a **Special Exception** as set forth in Section 401 to permit a children's nursery (Use Unit 5) in an RM-2 Residential District; a **Variance** of Section 403 of the 35' building height limitation in an RM-2 Residential District to permit a building height of 45'; and a **Variance** of the requirements of Section 403 and Section 703 that bulk and area requirements are established on the basis of lot of record boundaries and in substitution thereof to provide that bulk and area requirements are to be established based on the perimeter boundaries of the project, per concept plan, finding the hardship to be the older platted area and the project is more designed for the outer perimeters rather than on an individual lot basis, on the following described property:

A tract of land located in a part of Osage Hills Apartments and a part of South Osage Hills Addition and all of Block 8 Osage Hills Addition, all additions to the City of Tulsa, Osage County, State of Oklahoma, being more particularly described as follows: Beg. at the SW/c of Block 5, Osage Hills Apartments; thence N 00°07'01" E along the W line of Block 5, Osage Hills Apartments a distance of 705.00'; thence S 89°23'10" E a distance of 542.37'; thence S 00°01'43" W a distance of 115.00'; thence S 89°23'10" E a distance of 195.01' to the E line of Osage Hills Apartments thence S 00°01'43" W along the E line of Osage Hills Apartments a distance of 716.86' to a bend in the E line of Osage Hills Apartments; thence S 00°00'00" W along the E line of Osage Hills Apartments a distance of 25.00' to the NE/c of Block 3, Osage Hills Apartments; thence N 89°41'25" W along the N' line of Block 3, Osage Hills Apartments a distance of 154.00'; thence S 00°05'07" W a distance of 454.00'; thence N 89°23'10" W a distance of 444.62' to the W right-of-way of Country Club Drive in South Osage Hills Addition; thence N 00°05'07" E along the W right-of-way of Country Club Drive in South Osage Hills Addition a distance of 606.67' to the most Sly SE/c of Block 5, Osage Hills Apartments; thence N 89°23'10" W along the S line of Block 5, Osage Hills Apartments a distance of 140.00' to the SW/c of Block 5, Osage Hills Apartments, the POB; less and except any public dedicated streets or roadways within the above description.

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Case No. 18714

Action Requested:

Approval of an amended site plan to include new building on south for storage, located at 5524 E. 15th St.

