

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 855
Tuesday, December 10, 2002, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

**MEMBERS
ABSENT**

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted at the City Clerk's office, City Hall as well as in the Office of INCOG, 201 W. 5th St., Suite 600, on Thursday, December 5, 2002, at 10:48 a.m.

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

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Mr. Jim Beach read the rules and procedures for the Board of Adjustment Public Hearing.

CONTINUANCES AND CASES WITHDRAWN

Case No. 19492

Action Requested:

Special Exception to permit a wall in the front yard exceeding 4' in height; and a Variance to permit wall columns within the planned but not existing right-of-way of 36th Street, located 3458 and 3460 South Atlanta Place.

Presentation:

Mr. Beach informed the Board that Rodney Edwards, attorney for Frank and Bonnie Henke asked for a continuance. Mr. White suggested since none of the parties were present yet, that the case be tabled until later in the meeting.

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 November 26, 2002 (No. 854).

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UNFINISHED BUSINESS

Case No. 19477

Action Requested:

Variance of setback from required 25' to 1.6' to permit an existing in ground storm cellar in the front yard. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6; and a Variance to permit an accessory structure as a principal use. SECTION 402.B. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions, located 4208 S. Madison Pl.

Presentation:

Mr. Beach informed the Board that the applicant has withdrawn the application.

Board Action:

No action necessary.

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NEW APPLICATIONS

Case No. 19483

Action Requested:

Minor Variance of rear yard from required 20' to 18.17', located 6522 East 26th Court South.

Presentation:

Orman E. Landers, 6522 E. 26th Ct., stated that during the application for permits they discovered they had poured a foundation a few inches over the building line. They wanted to build a sunroom over the existing patio. A site plan was provided (Exhibit A-1).

Comments and Questions:

Mr. Dunham stated that staff did not point out any significant planning issues with this.

Interested Parties:

There were no interested parties who wished to speak.

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 **Minor Variance** of rear yard from required 20' to 18.17', per plan, finding there have been numerous other instances of the same minor variance, it is an existing condition and he is rebuilding, on the following described property:

Lot 18, Block 10, Boman Acres 3rd Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19484

Action Requested:

Special Exception to permit a home occupation in a RS-1 district (medical transcription service), located 4150 South Jamestown.

Presentation:

Julie Hall, 504 S. Allegheny, attorney for Norma Vesley, of 4150 S. Jamestown, stated that the applicant has done medical transcription work out of her home for over ten years. The last nine months she has been in a house she leased for one year until she buys another home. Previous to that she worked out of two different homes which she owned and never had any complaints. There is a lot of traffic, but most of it is personal in nature, family members and a care taker for her elderly mother. She submitted photographs (Exhibit B-1). Ms. Hall pointed out the limited view of her home from the street, by the screening of trees. Mr. Beach asked how many square feet are used for the office. Ms. Hall replied it is about 300 to 400 square feet. She explained that Ms. Vesley receives dictation over phone lines. The work is sent out via phone or computer to transcriptionists. The documents are returned to Ms. Vesley in the form of hard copies, which would amount to four to five cars per day. Since she received the complaint there has been no business traffic.

Comments and Questions:

Mr. Boulden asked how much of the traffic is business related. Ms. Vesley replied that four people would come by in the evenings to deliver hard copies they have transcribed. She added in the morning her courier delivers the documents to the physicians. Mr. Boulden asked how she has alleviated the business traffic. She replied that she is leaving four times per day to pick up the finished documents. She also has her courier deliver the paper work to the physicians in the mornings. The courier is also the housekeeper and caretaker for Ms. Vesley's mother.

Interested Parties:

Archer Ratzloff, 4317 S. Jamestown, complained about the excessive number of vehicles in and out of the subject property daily. He submitted a petition of opposition (Exhibit B-3).

John Deluca, 3712 E. 43rd St. S., stated he was representing his neighbors in the Patrick Henry Addition. He considered this a rezoning process. He stated this is a residential neighborhood, and they have documentation of speeders. They do not think a business belongs in this area.

Gordon Holmes, 3720 E. 43rd St., confirmed with the Board that the special exception would stay with the property. He surmised there is a business set up in a residential zoning district.

Comments and Questions:

Mr. Boulden asked about the parking of vehicles. Mr. Holmes stated that the vehicles have parked in the wide driveway. The driveway has an extension that would probably allow eight to ten cars to park off the street.

Interested Parties:

Monte Moellers, 4145 S. Jamestown, stated she found an advertisement for the business on the subject property in a newspaper. She stated they don't want a business in the neighborhood.

Jean Heidinger, 4123 S. Jamestown, expressed concern for what business would be started there after the applicant moves.

An informational letter was provided to the Board (Exhibit B-2).

Applicant's Rebuttal:

Julie Hall, stated this is a home occupation, and there is no stipulation about the amount of traffic. The majority of vehicles parked at the home are family owned. Ms. Vesley has run the business successfully for years in the same area. Ms. Perkins questioned that some of the transcriptionists are family members, and asked if those parked cars are family members employed by the business. Ms. Hall explained that when the relatives come for business they are delivering transcripts. When the relatives come over during the day it is strictly personal visits. There is no one else working out of her home other than the courier/housekeeper/caretaker that has been mentioned.

Ms. Vesley repeated the work process again for the Board. Ms. Hall explained that the niece who works for Ms. Vesley does not work on the subject property. Ms. Vesley stated that her other family members who come to visit are not receiving any compensation from the home occupation. Ms. Vesley is the only one residing there who is engaged in the business. She explained that she has more than one computer for backup in case there are problems.

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 **DENY** a **Special**

Exception to permit a home occupation in a RS-1 district (medical transcription service), finding it would 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, on the following described property:

Lot 22, Block 1, Villa Grove Heights No. 1, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19485

Action Requested:

Variance of size of detached accessory building to 2,268 square feet, located 10809 South Louisville Avenue.

Presentation:

Robert Clark, 10809 S. Louisville Ave., stated he proposes to build an accessory building for garage and hobby shop. The properties around them are large plots. The building would not be visible to most neighbors because of the lay of the land. A site plan (Exhibit C-1) was provided.

Comments and Questions:

Mr. White asked if there would be any commercial enterprise in the building. Mr. Clark replied there would not be.

Interested Parties:

There were no interested parties who wished to speak.

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 size of detached accessory building to 2,268 square feet, on condition there be no commercial activities conducted in the new structure, finding the size of the lot would support the size of the structure, on the following described property:

W 330.00' and S 331.00' of the N/4 SW/4 of T-18-N, R-13-E, Section 28, less 25.00' N for road, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19486

Action Requested:

Special Exception to permit a manufactured home in a RM-2 district; and a Variance to extend the one year time limit for manufactured home, located 4100 West 8th Street.

Presentation:

Kim Canfield, 21498 E. 43rd St., Broken Arrow, Oklahoma, stated she came to help Elmer Blanchard, of 1520 S. Memorial, present his application. He proposes to put a doublewide mobile home on a permanent foundation. She submitted photographs (Exhibit D-1). She mentioned that Mr. Blanchard is legally blind and needs access to a City bus.

Comments and Questions:

Ms. Perkins noted the staff comments that the Board previously approved a mobile home on this property. Ms. Canfield replied that the mobile was just recently removed. Mr. White asked about the existing garage. Ms. Canfield responded they are considering removing the garage also. Mr. Cooper asked if the applicant wants the home to remain there as long as possible. Ms. Canfield replied in the affirmative.

Interested Parties:

Janet Thompson, 501 Angus Dr., Sand Springs, Oklahoma, stated she owns property at 3940 W. 8th St., in which her mother lives. She stated that she and the neighbors do not want a modular home moved into the area because they deteriorate more quickly than permanent structures. Two area trailer parks have been closed down for similar reasons.

Applicant's Rebuttal:

Ms. Canfield mentioned this is a hardship case, that Mr. Blanchard is a veteran and legally blind. This prevents him from going outside of the city limits to place a manufactured home. They plan to put it on a permanent foundation and it will be FHA and VA approved. The house has a HUD label, which means it will not sit and deteriorate in four to five years.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-1-0 (White, Dunham, Turnbo, Perkins "aye"; Cooper "nay"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a manufactured home in a RM-2 district; and a **Variance** to extend the one year time limit for a manufactured home, on conditions that it be a new home on a permanent foundation and for a ten year time limit, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

Lot 1, Block 2, Home Gardens Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19492

Action Requested:

Special Exception to permit a wall in the front yard exceeding 4' in height; and a Variance to permit wall columns within the planned but not existing right-of-way of 36th Street, located 3458 and 3460 South Atlanta Place.

Mr. Beach informed the Board that Frank and Bonnie Henke represented by Rodney Edwards are requesting a continuance pending the outcome of a district court case on the same property for the same issue.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 501, stated he represented Mr. Phillips in the previous case in court and is applicant in this case. When it came before the Board it involved a variance for height limitation of a wall. The relief needed was a special exception. The variance was denied for lack of a hardship. No hardship finding is required for a special exception. There was no relief requested for a variance of a setback from centerline of the street. These are two separate applications. He asked that the case be heard today.

Comments and Questions:

Mr. Boulden stated this is a separate case than the previous one and recommended the Board to proceed with this application. Mr. Boulden spoke with Mr. Edwards and he believes they intended to stand on the letter sent to the Board of Adjustment (Exhibit H-2).

Board Action:

Mr. White stated the case would be heard in turn on the agenda.

W 200.00' of Lot 6, Block 4, Oakview Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19487

Action Requested:

Special Exception to allow a private park in a RS-2 district, located 13230 East 4th Place.

Presentation:

Rogue Gatton, 12027 E. Archer, stated he built a wall on his property and did not know he needed a permit. He did not think it was too high. He informed the Board that all they do is play handball there.

Comments and Questions:

Mr. White asked for the height of the wall. Mr. Gayton replied it is 12' in height. Mr. White asked for a drawing showing where it is on the property and how far from the side yard. Mr. White asked if the privacy fence is on the property line.

Mr. Gayton replied in the affirmative. Ms. Turnbo asked who can use the private park. Mr. Gayton replied his family and friends. He does not have restroom facilities on the property. He stated about 20 people play ball there. He added they park on his friend's yard. Mr. White asked what the zoning violation notice stated. Mr. Beach responded that the notice was regarding an accessory use without a principal use.

Interested Parties:

Priscilla Lucius, 13266 E. 4th Pl., submitted photographs and a petition (Exhibit E-1 and E-2). She stated that every weekend there are between 30 and 40 vehicles. She informed the Board there is only one access for the area.

Matthew Steele, 6220 S. 132nd E. Ave., submitted photographs (Exhibit E-1). He pointed out beer cartons left outside the fence and the wall. He counted at least 40 cars at one time. The volume of traffic is excessive for only one access. He suspects the property is being used for gambling. He indicated that many people could not play at one time. The owner of the land where the cars are parked signed the petition of opposition.

Edith Black, 13501 E. 4th Pl., expressed the same concerns as listed above.

Applicant's Rebuttal:

Mr. Gayton responded that they do not park in anyone's way and never block the road. He added that they pick up the trash there everyday.

The Board discussed conditions of: no parking lot, no restroom facilities, and increased traffic in the neighborhood.

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 **DENY** a **Special Exception** to allow a private park in a RS-2 district, finding it would 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, on the following described property:

Lot 7, Block 9, Meadowbrook Heights, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19488

Action Requested:

Special Exception to permit a school and childcare center in an IL district, located 4339 South 93rd East Avenue.

Presentation:

Janice Roth, 8534 E. 37th Pl., stated they propose to move a private school with 88 children to another facility with more space. She stated they would need to construct a six foot fence across the front and down the side of the playground area. The property is approximately 10,000 square feet. They will be prepared to care for 150 children.

Comments and Questions:

Mr. Dunham asked about the parking requirement for this property. Mr. Beach responded the requirement is one parking place per 500 square feet of floor area.

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 permit a school and childcare center in an IL district, with conditions for meeting all required licenses, inspections, parking requirements, and a 6' fence in front and along side the playground, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Part of Lot 1, Beg. NE/c, thence S 255.65', due W 389.94' N 306.41 on curve to right 108.23 SE 400.00' to Beg., Alexander Trust Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19489

Action Requested:

Special Exception to permit a Drive-in Restaurant in CS zoning, located 19th and Memorial.

Presentation:

Ted Sack, 111 S. Elgin, with Sack and Associates, stated he represented Sonic Drive-Ins. He described the surrounding CS zoned properties and an OM zoned district across the street. An aerial and site plan were provided (Exhibits F-1 and F-2).

Comments and Questions:

Mr. White asked if this will leave Albertson's with the required parking. Mr. Sack replied that Albertson's would still have required parking. When the lot split was obtained in 1997 they had to show each tract would stand on their own.

Interested Parties:

Al Nichols, 8525 E. 16th St., stated he represented Mingo Valley Homeowners' Association. They are in support of the application, as it would enhance the neighborhood.

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 **APPROVE** a **Special Exception** to permit a Drive-in Restaurant in CS zoning, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

A part of Block 9, O'Connor Park, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the official recorded plat thereof, Plat Number 1236, being more particularly described as follows: the N 300.00' of the W 134.00' of the following described tract of land: The W/2 of Block 9, less and except the S 175.00' W 175.00' thereof, and less the N 5.00' thereof, and less the W 10.00' of the N 405.76' thereof, O'Connor Park; said 300.00' being measured perpendicularly to the N line of said tract and said 134.00' being measured perpendicularly to the W line of said tract.

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Case No. 19490

Action Requested:

Special Exception to allow Use Unit 17, automobile sales in a CS district, located 9710 East 11th Street.

Presentation:

Kenton Kirchner, 6330 E. 4th Pl., introduced Mr. Brandt, from the Mingo Valley Homeowners' Association, to speak.

Hank Brandt, 8937 E. 15th St., stated the association's Board of Directors met with Mr. Kirchner. They outlined the things they felt would enhance the neighborhood and not be a detriment. They were in agreement on the issues. Since then he found a larger lot and even though it is not in the same neighborhood they felt it was a good location. If Mr. Kirchner indicated he would follow the same guidelines they had agreed upon.

Comments and Questions:

Mr. Boulden asked to see the outline of items. Mr. Brandt replied that neither he nor Mr. Kirchner brought a copy with them. Mr. Brandt tried to list some: a greenbelt around the street, a pipe fence on the frontage, and privacy fence for abutting residential properties.

Comments and Questions:

Mr. Cooper asked Mr. Jones for the hardship. Mr. Jones responded there is no available property nearby to increase his parking lot. Mr. Jones pointed out the lot is irregularly shaped. Mr. Beach asked for the square footage of the chapel. Mr. Jones replied that it is about 25' x 50'. Mr. Beach reminded the Board of the requirement for a one acre lot. The Board found from questioning the applicant that the business has grown to include embalming, and a chapel.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Perkins**, the Board voted 3-1-1 (Dunham, Turnbo, Perkins "aye"; Cooper "nay"; White "abstained"; no "absences") to **APPROVE** a **Variance** of the requirement that a funeral home which provides a chapel or assembly area shall have a minimum lot area of one acre, contingent upon permission to use the 31 additional parking spaces available no matter who owns that property; finding the applicant had all the approvals by the City of Tulsa and State of Oklahoma to operate a funeral home; and that there are numerous funeral homes operating on less than one acre in the City of Tulsa, on the following described property:

Lots 7 through 12 and the E 10.00' of vacated alley adjacent on the W and less the E 10.00' thereof for highway, Block 31, Yargee Addition to the City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19492

Action Requested:

Special Exception to permit a wall in the front yard exceeding 4' in height; and a Variance to permit wall columns within the planned but not existing right-of-way of 36th Street, located 3458 and 3460 South Atlanta Place.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 501, stated he represented Don Phillips, the developer of the subject property. Mr. Phillips assembled the properties from previous lot splits and ended up with four lots. The two in question front 36th Street, but are served by a mutual access on the north boundary that extends east to Atlanta. The actual access will be from Atlanta. In theory their frontage along 36th Street actually serves as a rear yard. In a rear yard an eight foot fence or wall would be allowed. The mutual access on the north is the true front. Photographs were provided (Exhibit H-1). The wall has been constructed except for a break at midpoint, which has been used for construction access. It will be closed at the end of construction. He showed the change in topography that increases the height of the fence on the west end. He pointed out that the PSO substation is across the street rather than a residence. Mr. Johnsen explained that the east end of this fence meets a side yard fence to the neighboring house, which faces Atlanta Pl.

Mr. Johnsen stated they would like to finish the last column on the west end with a capstone as the rest of the columns that would make the column about seven feet in height. A site plan was provided (Exhibit H-3).

Interested Parties:

There were no interested parties who wished to speak. The Board received two letters from Frank and Bonnie Henke in opposition to the application (Exhibit H-2).

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 permit a wall in the front yard exceeding 4' in height, finding it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and a ***Variance*** to permit wall columns within the planned right-of-way of 36th Street but not existing right-of-way of 36th Street, finding there are already fences that set in front of this one, on condition for a removal contract, and improve the westernmost column up to seven feet with a decorative feature, which by and large complies with the setback; and there is no abutting front yard of any single-family dwelling, which this would appear to be an encroachment in front of, on the following described property:

W 200.00' of Lot 6, Block 4, Oakview Estates, City of Tulsa, Tulsa County, State of Oklahoma.

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Mr. Cooper out at 3:38 p.m.

Case No. 19494

Action Requested:

Minor Variance of rear yard requirement of 25' down to 20', located 1776 East 31st Street South.

Presentation:

Nancy Perryman, 1776 E. 31st St., stated she has lived there for 17 years. She talked with her neighbors about her plans. It is very dangerous to cross oncoming traffic to turn into her driveway. She consulted an architect and has plans to for a master suite and garage to access from Yorktown. She pointed out this plan is consistent with other homes in the neighborhood.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a ***Minor***

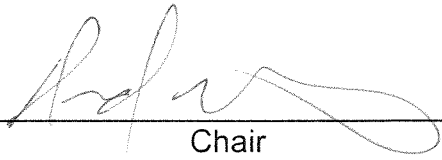
Variance of rear yard requirement of 25' down to 20', finding other garages closer to the street than this one would be, and entering the garage on 31st is a traffic hazard, on the following described property:

Lot 9, Block 1, Bren Rose Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 3:44 p.m.

Date approved: JANUARY 14, 2003


Chair