

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 862
Tuesday, April 8, 2003, 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
Parnell, NBH
Inspections

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, April 2, 2003, at 3:20 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

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

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19543

Action Requested:

Variance to permit an outdoor advertising sign from the permitted 60' height to 100' in height in a CG district. SECTION 1221.F. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, Use Conditions for Outdoor Advertising Signs – Use Unit 21; and a Variance to permit an off-premise business sign and to exceed the height and display area allowed in a CG district. SECTION 1221.E. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CG, CH, CBD, IL, IM, and IH Use Conditions for Business Signs, located 129th E. Ave. & I-44.

Presentation:

Mr. Beach informed the Board that the application was complicated and needs more relief. Staff has not determined all of the relief needed and recommends a continuance.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 19543 to the meeting on April 22, 2003 to allow time to advertise for all the relief needed.

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MINUTES

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of March 25, 2003 (No. 861).

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UNFINISHED BUSINESS

Case No. 19531

Action Requested:

Appeal of the decision of the Neighborhood Inspector as to alleged violations; Or in the alternative: a Special Exception to permit a home occupation interior design business. SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6, located 3515 S. Lewis.

Mr. Cooper arrived at 1:05 p.m.

Presentation:

Roy D. Johnsen, 201 W. 5th St., Ste. 500, stated he represented Brenda Phillips, an interior designer, who lives in the home of the subject property with her husband. She conducts the business of Brooke Design in an attached garage. They received a notice from Neighborhood Inspections. They share an access from Lewis that divides into their private driveways with their neighbor, shown in photographs (Exhibit A-1). The garage is two-story and is used for an office and to store samples and other business items. Mr. Johnsen stated they do not have retail merchandise on site for customers to come in and purchase.

Comments and Questions:

Ms. Perkins asked if there is an employee outside of family working at this location. Mr. Johnsen replied there is an employee working there. They are now asking for a Special Exception for a home occupation without employees. They also ask for 90 days to relocate the employee and reduce the space used for the business to 500 square feet. They do not stock merchandise on the property to sell but they do sell out of catalogs. He gave an estimate of one delivery per day, and the office is open four days per week, 9:30 a.m. to 4:30 p.m. He stated that clients are seen by appointment only. Mr. Dunham asked how many customers come to this

location per day. Mr. Johnsen responded that his client stated three customers per week by appointment. Mr. White referred to a letter of protest that mentioned two businesses being operated there. Mr. Johnsen replied he did not know the answer to that. He was aware that Mr. Phillips is a general contractor but he does not know how he conducts his business. Mr. Boulden asked if any craftsmen or laborers work there for her business. Mr. Johnsen responded they do not come to this site to work.

Interested Parties:

John Moody, 1924 S. Utica, Ste. 700, for Mr. and Mrs. Brunton, 3507 S. Lewis, that share the access to Lewis. In the beginning the Bruntons did not object to the business, but that has changed since it appears there are several businesses run out of the home. The businesses are At Home, L.L.C., Brooke Design, and Brooke Construction. There are subcontractors and employees going to the house to pick up their checks and other reasons. He informed the Board that the downstairs of the garage has been used for the storage and sales of furniture, antiques and other items. Customers go to the house, purchase items and take them home. He submitted a document from the County Assessor's Office diagramming the garage and photos (Exhibit A-6), which indicates the square footage is about 1,593 square feet. Mr. Moody indicated that unlike a more typical home occupation close to the street, the deliveries and activities are at the interior of the property where it is considered to be more of an intrusion of the residential living space. He showed pictures (Exhibit A-2) of delivery trucks, and several other business vehicles, customers picking up and loading furniture. Mr. Moody stated he understands that Mrs. Phillips travels to Europe and other places to purchase furniture for her business. He indicated that it is shipped and store in the garage office. He was told that they used to have the office and business in a retail building but shut it down, and began running the business from the home. He submitted a document from the Oklahoma Secretary of State showing the businesses listed (Exhibit A-3). He submitted a picture from Tulsa County records of a home built to sell by their construction business (Exhibit A-4) for the purpose of showing another business is being operated out of this home. He submitted numerous letters and petitions in protest from individuals and two home owners associations (Exhibit A-8). They believe these businesses are not conducive to a residential neighborhood and do not follow the zoning code for home occupation. Mr. Boulden noted he had some pages from the phone book and asked about them. Mr. Moody submitted telephone book pages listing the business listings (Exhibit A-5).

Nancy Apgar, 3914 S. Norfolk, stated she represented Brookside Neighborhood Association. They believe it is wrong to have a showroom and sales office as a home occupation in a residential district. She stated it would set a precedent and change the livability and quality of life of the neighborhood.

Mary Allison, 2246 E. 32nd Pl., stated she purchased a six-foot hall tree, and a lamp from this home. She added that it is a full-blown business there. She has the same type of business and received fifteen or more deliveries per day at her

Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

Lots 19 - 22, Block 10, Fairhill II Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19548

Action Requested:

Special Exception to permit children's nursery Use Unit 5. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located 2131 E. 31st PI. N.

Presentation:

Kevin Coutant, 320 S. Boston, Ste. 500, stated he represented his client for a Special Exception for a children's nursery. He submitted a packet of information and a plot plan (Exhibits D-1 and D-2). The site plan was revised to show a 25' setback from the abutting RS on the east boundary, and a 5' landscaping strip along the road. There will also be a screening fence on the north, east and western boundaries.

Comments and Questions:

Ms. Turnbo asked about the age of the children in the nursery. Mr. Coutant responded they would be infants through fifth grade. The hours/days of operation would be 7:00 a.m. to 7:00 p.m.

Interested Parties:

There were no interested parties present 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 **Special Exception** to permit children's nursery Use Unit 5, per plan, on the following described property:

Lots 18 - 20, Block 6, Beauty Rest Addition, City of Tulsa, Tulsa County, State of Oklahoma.

On **Amended 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 children's nursery Use Unit 5, per plan, with conditions for days/hours of operation Monday through Friday, 7:00 a.m. to 6:00 p.m.; for infants through 5th grade, on the following described property:

Lots 18 - 20, Block 6, Beauty Rest Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19549

Action Requested:

Variance of required rear yard from 25' to 15' to permit an addition to an existing dwelling. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts – Use Unit 6, located 4221 E. 75th Pl.

Presentation:

Dorian C. Kurin, 6528 E. 101st St., Ste. 397, stated he is an architect and builder, representing the Davidsons, owners of the subject property and the property just to the north of it. They propose to add two and one-half feet onto the back of their house. This would still honor the original fifteen-foot rear yard setback line. About eleven feet of dry rot on the porch would be removed before the new portion is added on. The addition would be piered to solid strata to avoid causing soil pressure on the sewer pipe in the easement. A site plan and arguments for the request were provided (Exhibits E-1 and E-2).

Comments and Questions:

Mr. Beach disputed Mr. Kurin's statements regarding the rear yard setback requirements when the house was originally built and asked for documentation. He added that the current zoning requirements for rear yard setback were put in place in 1970.

Interested Parties:

Louis Davidson, 4221 E. 75th Pl., stated he lives in the house on the subject property. He explained the house is built at an angle on an extremely steep hill. They have considered their other lot to be the back yard or essentially they would not have a back yard.

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 required rear yard from 25' to 15' to permit an addition to an existing dwelling, per plan, with conditions that a tie agreement be completed between Lots 6 and 7; and no additional residence be allowed on Lot 6, finding this is just a two and one-half foot extension of the existing house, and that with the topography and tie agreement it will not be detrimental to the neighborhood, on the following described property:

Southridge Estates 5th Addition Amended, Lot 7, Block 1, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19550

Action Requested:

Variance of the required 95' setback from centerline of 71st Street to 75' in an RS-2 district to permit an addition to the south side of the dwelling. SECTION 403.A. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, Bulk and Area Requirements in the RE, RS, RD, RT and RM Districts, located 6991 S. Oswego Ave.

Presentation:

Stanford Lane, 6991 S. Oswego, stated he owns this property. He asked for a fifteen foot variance rather than a twenty foot variance. He proposes to add a master bedroom suite to the south side of the house. He discovered that his house is over the building line by about one foot. The house is thirty years old and he has lived there since 1990. He explained the existing rear yard utility easements, transformer on electric pole, and on the south side is an easement for a gas main line. He found that the plans he proposed were essentially the only place where he could add onto the house.

Interested Parties:

There were no interested parties present 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** an **Variance** of the required 95' setback from centerline of 71st Street to 75' in an RS-2 district to permit an addition to the south side of the dwelling, amended to include the addition to the house on the west and east be in line with the existing house and on the south would not encroach on the existing sewer, 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,

Lot 13, Block 4, Windsor Park South, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19551

Action Requested:

Variance of the off-street parking spaces required by Section 1212.D of the Zoning Code for the restaurant use by 10 spaces subject to the site plan approved by the Board for enclosure of the outside dining area. SECTION 1212.D. USE UNIT 12. EATING ESTABLISHMENTS OTHER THAN DRIVE-INS, Off-Street Parking and Loading Requirements – Use Unit 11 & 12, located 3401 – 11 S. Peoria Ave.

Presentation:

Charles Norman, 2900 Mid-Continent Tower, stated he represented the building owner and the operator of the Brook Restaurant. This site plan was approved by the Board in Case No. 16623. The dining area was identified as the outdoor dining on that plan. Ten additional parking spaces were approved for a health club, which is now occupied by a yoga school and studio that requires eight less parking spaces. He submitted photographs (Exhibit F-2) of the area to Board. They propose to enclose the outside dining area, and place casement windows around the front and side of the dining area. A site plan was provided (Exhibit F-1).

Interested Parties:

Nancy Apgar, 3914 S. Norfolk, stated she represented the Brookside Neighborhood Association. She stated they approve of this project.

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 off-street parking spaces required by Section 1212.D of the Zoning Code for the restaurant use by 10 spaces subject to the site plan approved by the Board for enclosure of the outside dining area, based on existing uses of the property, per plan, o the following described property:

Lots 3, 4 & 5, less the S 32' thereof, and Lot 6, Block 2, Oliver's Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19552

Action Requested:

Special Exception to permit a mini-storage in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 16, located 3645 N. Lewis Ave.

Presentation:

Kent Johnson, 5812 N. Elgin, proposed to build a mini-storage.

Comments and Questions:

Ms. Perkins asked if there would be any outside storage. Mr. Johnson replied that he would not have outside storage.

Interested Parties:

There were no interested parties present 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 **Special**

