

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 875
Tuesday, October 28, 2003, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Stephens
Turnbo
White, Chair

**MEMBERS
ABSENT**

Perkins

**STAFF
PRESENT**

Beach
Butler

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, October 24, 2003, at 9:50 a.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.

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19668

Action Requested:

Special Exception to permit an office/warehouse in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 15, located: 12565 E. 21st St.

Presentation:

The applicant for Battle Creek Mini-Storage was not present. Mr. Beach reminded the Board this case has been delayed several times. He added that he anticipated a new legal description for a proper notice, but did not receive it. If the case was continued to November 4, 2003 there is not time for proper notice. November 25, 2003 it will be longer than ninety days since the application was made. Mr. Beach suggested the Board deny without prejudice and the applicant can reapply when they are ready.

Comments and Questions:

Ms. Turnbo asked the height of the RV. Ms. McKay replied that it is 11½'. Mr. Boulden asked the make and model. Mr. McKay stated it is a 1999 Cruise Master by Georgie Boy. Mr. White asked Mr. Beach about the staff statement. Mr. Beach replied that if the pavement was placed two feet further to the east they would not need relief because it would be in the non-required side-yard and would need no relief. Mr. Stephens asked if her neighbor on the west knew the driveway was for an RV when she agreed to it. Ms. McKay replied that the neighbor knew it was for an RV.

Interested Parties:

Roger Scott, 4250 S. Oswego, stated the applicant built a metal carport on the original driveway and blocked the clearance for the RV. He complained that the RV is plainly seen in the front yard. He indicated that on the ¾ acre lot, there is room to park an RV other than in the front yard. He also complained of the flood light they put in. He submitted photographs, letters of opposition and a petition in opposition, (Exhibits A-4 through A-6). He questioned what the hardship would be. He noted that two of their neighbors park their RV's at a storage site. He suggested they could have used the original driveway and parked in the back yard.

Robert Harper, 4030 E. 41st Pl., complained that the RV is easy to see in the front yard. He stated it is unsightly and decreases the value of the property. He pointed out that it was built without a permit.

Deborah Ellis, 4012 E. 41st Pl., stated the RV is not parked behind the building line.

Mary Harper, 4030 E. 41st Pl., complained that they are trying to preserve one tree when they cut down several others.

Applicant's Rebuttal:

Ms. McKay replied that the slope in the topography is the reason they could not use the original driveway to park in the back yard. They knew if they filled in with dirt they would cause flooding in the neighbor's yard. She stated the back of the RV is ten to twelve feet from the street. She informed the Board they consulted their closest neighbors before they built the driveway and found no opposition. She stated the flood light is for the safety of their home not just the RV. They took out several trees so the limbs would not damage their roof. She stated they have built a number of buildings and driveways in the past and the contractors obtained the permits for them.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **DENY** Case No. 19683, 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, and finding lack of a hardship, on the following described property:

Lot 3, Block 9, Saddlelane Addition, Section 28, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19684

Action Requested:

Appeal of Administrative Official's decision alleging a zoning violation that the property may not contain a veterinary clinic, located: 3740 S. Norfolk Ave.

Presentation:

Terry Weber, 406 S. Boulder, Ste. 410, stated the owners use the house on the subject property as an apartment when they have occasion to stay in town, as their primary residence is a few miles out of town. He stated the house is not being used as a veterinary clinic. His client has a very nice, modern clinic on Peoria, with boarding facilities. He added that there are animals that come to the house and they were received because they were going to be destroyed. He informed the Board they are usually birds. Many of the animals end up at their house in the country.

Interested Parties:

Nancy Apgar, 3914 S. Norfolk, stated she represented the Brookside Neighborhood Association. They asked the Board to deny this case. She stated a veterinary clinic is not allowed by the zoning code in this neighborhood. She added it would reduce the quality of life in many ways, i.e., animal runs, noise, and danger if animals escaped the clinic. A petition and letters of opposition were provided (Exhibits B-1).

Comments and Questions:

Candy Parnell, Neighborhood Inspections, stated they are not running a veterinary clinic in this neighborhood. She believes it is accessory to the clinic. She stated it is a vacant house and no one is living there. It appeared that they use it to board animals until they find suitable homes, and this is not a proper use for this property. That is what the notice is about. She took information from the resident that made the complaint and took photographs. She observed old veterinary journals, seven small animal carrying cases with cats in them, trash of cat food cans on the premises. Ms. Parnell stated she went to the clinic to talk with Ms. Johnson, but she was busy. She requested a phone call from Ms. Johnson at her convenience. Ms. Parnell was contacted by a man identifying himself as, Russ Whittington with the Tulsa Police Department. He asked her why she was bothering Ms. Johnson. She explained to him she is with Neighborhood Inspections and they had received a complaint. He stated he had purchased the property for Ms. Johnson and her husband to stay in when they are in town and there is bad weather. She asked when they last stayed there and he did not

Wall responded that they had considered this alternative, but rejected it as too an angle difficult to maneuver.

Ms. Butler submitted a petition and letters (Exhibit C-3).

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of setback from the street from 20' to 10' to permit a garage addition; and 15' to 10' side yard from a street for dwelling, per plan, finding the short street is not developed with limited traffic; to place the garage elsewhere would destroy the integrity of the house; and the plan is more in keeping with the neighborhood, on the following described property:

N 70', Lot 24, Peebles 2nd Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19687

Action Requested:

Special Exception to permit a children's day care center in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5, located: 3142 N. New Haven Ave.

Presentation:

Phyllis White, P.O. Box 6219, Tulsa, proposed to open a licensed day care facility in a residential area. The area is undeveloped; therefore this would create jobs and be an asset to the neighborhood. They would pave for parking and make it wheelchair accessible.

Interested Parties:

Inez Johnson, introduced her son, **Gary Johnson**, and stated they have owned the subject property for many years. They did not have a deed or any documentation to show ownership. Mr. Beach informed the Board that the applicant made application stating she is the owner of the property.

Judy Casey, 1556 N. Yorktown Ave., stated she has horses on the adjacent property. She was concerned for the safety of the children and suggested they would need a screening fence.

Catrina Ross, 2830 E. 44th Pl., stated she has horses across the street on property to the East. She was concerned how this would affect their property. Mr. White responded this was not an issue before the Board.

Applicant's Rebuttal:

Ms. White stated they could put up a screening fence on the west. She informed the Board they own the property and have paid taxes for the last four or five years.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to permit a children's day care center in an RS-3 district, with conditions: for a 6' solid screening fence on the west property line for protection of the children from horses, for as long as the applicants own the property, regarding the following described property:

Lots 1, 2, 3 and 4, Block 2, Mohawk Heights, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19688

Action Requested:

Special Exception to allow Use Unit 17 Automobile and Allied Activities (transmission shop). SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 9130 E. 11th St.

Presentation:

Brad Fuller, 20 E. 5th, Ste. 200, stated he represented the owner of record and potential purchaser. The buyer proposes to open a Use Unit 17, transmission shop. They would have no outside storage and all work would be done inside. All jobs would be done by appointment with minimal traffic and parking. The property has a poor history for a wrecker service, referring to (BOA Case No. 18887). The new use is consistent with and not adverse to the neighborhood. He submitted a packet of exhibits (Exhibit D-1). There would be three bays with lifts. There would be two curb cuts for ingress and egress and new asphalt for parking. The back is gravel and would not be used. The days and hours of operation would be Monday through Friday, 8:00 a.m. to 5:00 p.m.

Comments and Questions:

Mr. Boulden noted the application is for the entire lot. He asked if they would object to a condition that the rear of the property not be used for parking.

2:35 p.m. Mr. White out.

Mr. Boulden commented that it took a long time to get this property cleaned up and he wanted to avoid storage problems with a new business. Mr. Fuller assured the Board there would be no outside storage, and parking only on all-weather surface. Mr. Fuller responded that on the property to the east the Board approved a more intensive use in BOA Case No. 12624. It allowed for auto sales and repair; fifteen

cars parked on a lot ½ the size of the subject property; parking on all-weather surface; lighting directed inward; all work conducted inside; no outside storage of parts; and no salvage.

2:38 p.m. Mr. White returned.

Interested Parties:

Al Nichols, 8525 E. 16th St., stated he represented the neighborhood association. They had no objection to the application as long as the transmission work is inside; only reasonable number of customer cars parked on property on paved lot; no salvage; and no wrecker stored on property.

Applicant's Rebuttal:

Mr. Fuller listed adjusted conditions: no outside sales/storage; no salvage; all-weather surface parking; all work inside; no more than ten customer cars; no inoperable vehicles; Monday through Friday, 8:00 a.m. to 5:00 p.m.; no wrecker service.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Special Exception** to allow Use Unit 17 Automobile and Allied Activities (transmission shop), with conditions: days/hours of operation Monday through Friday, 8:00 a.m. to 5:00 p.m.; all work inside building; limit number of customer vehicles parked outside to ten; no inoperable vehicles permitted on premises for more than twenty-four hours; no wrecker storage on property; car repair only, no semi-trucks, buses, or other large vehicles; no outside sales on premises, on the following described property:

Beg. 50' S and 165' W of the NE/c NW NE of Section 12, T-19-N, R-13-E, thence S 280', thence W 165', thence N 144.57', thence NE 134.54', thence E 105' to POB, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19689

Action Requested:

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 permanently. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located: S side of E. Newton & E of N. Wheeling.

Presentation:

Lupe Varnell, 924 N. Victor, stated she was the interpreter for the property owner, Mr. Mariano Cano, 2103 E. Newton. They proposed to place a new mobile home on the property. They want to place on a permanent foundation with skirting.

Comments and Questions:

Mr. Dunham asked for a picture of the home. They did not have one selected yet. Mr. White commented there was a letter from the President of the Neighborhood Association in opposition to the application (Exhibit E-1). Mr. White did not see any mobile homes in the area. Ms. Varnell stated there were two mobile homes. Mr. Stephens stated it was difficult to make a decision without a picture or floor plan, etc.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **CONTINUE** Case No. 19689 to the meeting on November 4, 2003, to allow applicant to obtain a picture of the proposed home, and bring information on existing mobile homes in the area and their location, regarding the following described property:

A part of the NW/4 SE/4 NE/4 of Section 31, T-20-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma, more fully described as: Beg. 197' E of the NW/c NW/4 SE/4 NE/4 thereof; thence S 320'; thence E 67'; thence N 320'; thence W 67' to the POB.

Case No. 19690

Action Requested:

Variance of required 15' side yard to 10'10" to permit an addition in an RE district. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located: 1729 E. 29th St.

Presentation:

Carol G. Van Schoyck, 1729 E. 29th St., stated they designed an addition to their house to provide a bedroom, bath and closet on the first floor. A site plan was provided (Exhibit F-1).

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of required 15' side yard to 10'10" to permit an addition in an RE district, per plan, 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:

RS-1 and OL districts; a **Variance** of time limitations; and alternative off-street parking materials, for a period of three years, on the following described property:

Lots 1 and 2, and W 100' Lot 25 and 26, and E 100' Lot 3, Block 1, Villa Grove Heights, City of Tulsa, Tulsa County, State of Oklahoma, and being located in CS, RM-2, OL and RS-1.

Ms. Turnbo returned at 3:11 p.m.

Case No. 19692

Action Requested:

Variance to allow two-story building with 2nd story windows. SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS; and a Variance of required parking from 89 spaces to 76 spaces. SECTION 1211. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, located: 4535 S. Harvard Ave.

Presentation:

Ken Alexander, 21100 Hickory Dr., Sand Springs, Oklahoma, stated this building was constructed in 1978 for a private racquetball court. They propose to use it for corporate offices for Rib Crib. They desire windows for natural light on the second floor level on the southeast corner. The window would be high, not for a view. They are 53' from the rear property line, and approximately 125' to the closest property to the east. There are two large trees on the applicant's side which would also serve to screen. The back side will be secured and lighted.

Tom Earnst, 2 W. 6th, Ste. 410, the landscape architect stated they plan to clean up the drainage area and increase the landscaped area.

Comments and Questions:

Mr. White asked how many employees would work in the building. Mr. Earnst replied there would be 50 employees. Mr. White asked if they have talked with the neighbors about this application. Mr. Earnst replied they spoke with the neighbors to the south. Mr. Stephens asked if there is a kitchen. Mr. Alexander responded there is a test kitchen. He added that a racquetball court and swimming pool will remain in use for the employees.

Interested Parties:

Linda Shaffer, 3312 E. 45th St., stated that the back of her house faces the building on the north side. She expressed concern that they might request more windows in the future, other than on the east. She had no objections to the parking plans. Ms. Turnbo explained they would have to return to the Board for more relief to put in more second story windows.

Doug Powers, 3324 E. 45th St., stated he is adjacent on the north to the subject property. He opposed windows except for in the front.

A tract of land in the NE/4 SE/4 of Section 31, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, said tract described as follows, to-wit: Beg. at a point on the E line of said NE/4 SE/4, said point being 543' S of the NE/c thereof; thence W 258'; thence due S a distance of 745.62'; thence E 178' to a point 80' W and 30' N of the SE/c of said NE/4 SE/4; thence N parallel with the E line thereof 150'; thence E parallel with the N line thereof, a distance of 80' to a point on the E line of said tract; thence N along said E line a distance of 595.50' to the POB.

Case No. 19697

Action Requested:

Variance of the maximum allowed coverage of the required rear yard from 25% to 32%. SECTION 210.B.5.a. YARDS, Permitted Obstructions in Required Yards – Use Unit 6, located: 2259 S. Rockford

Presentation:

David Been, 2259 S. Rockford, stated the original 10' x 16' garage had termite damage and water rot. He had the structure removed and prepared to build a new detached garage on a non-conforming lot. He needed this relief for the project.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Stephens "aye"; no "nays"; no "abstentions"; Perkins "absent") to **APPROVE** a **Variance** of the maximum allowed coverage of the required rear yard from 25% to 32%, per plan, finding it is a non-conforming lot as to size and the distance of the drive from the street necessitates this garage be placed where it is, and 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 11, Block 3, Terwilleger Heights, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 4:08 p.m.

Date approved: _____

Chair