

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 886
Tuesday, April 27, 2004, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Vice Chair
Stephens
Perkins
White, Chair

**MEMBERS
ABSENT**

Turnbo

**STAFF
PRESENT**

Beach
Butler
Alberty

**OTHERS
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Friday, April 23, 2004, at 1:21 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. 19807

Action Requested:

Special Exception to allow Use Unit 19 (Indoor Gun Range) in an IL zoned district. SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS, located: 8516 East 41st Street.

Presentation:

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 Beach informed the Board that the applicant has withdrawn the application.

Board Action:

No action needed.

Case No. 19804

Action Requested:

Variance of parking requirement for fine arts center and new field house. SECTION 1205.C. USE UNIT 5. COMMUNITY SERVICES AND SIMILAR USES; OFF-

STREET PARKING AND LOADING REQUIREMENTS; a Variance of building setback. SECTION 1201.C.2.c. USE UNIT 1. AREA-WIDE USES BY RIGHT; USE CONDITIONS; a Variance of height of building. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance of access road setback. SECTION 1201.C.2.d. USE UNIT 1. AREA-WIDE USES BY RIGHT; USE CONDITIONS; and a Special Exception to allow new bleachers at the football field. SECTION 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS, located: 2520 S. Yorktown.

Presentation:

Mr. Beach stated the applicant made a timely request for continuance to May 11, 2004.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19804 to the meeting on May 11, 2004.

SW/4 of the NE/4 of Section 18, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof.

* * * * *

Case No. 19812

Action Requested:

Variance to allow a two-story accessory building. SECTION 210.B.5. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; and a Variance of allowable coverage of rear yard to 68% (pool house and garage). SECTION 210.B.5. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS, located: 2112 S. Norfolk.

Presentation:

Mr. Beach informed the Board the applicant would like to ask for additional relief and requested a continuance to May 11, 2004.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **CONTINUE** Case No. 19812 to the meeting on May 11, 2004.

Lot 8, Block 8, Sunset Park Amended, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

MINUTES

On **MOTION** of **Dunham**, the Board voted 3-0-1 (White, Dunham, Perkins, "aye"; no "nays"; Stephens "abstained"; Turnbo "absent") to **APPROVE** the Minutes of April 13, 2004 (No. 885).

* * * * *

UNFINISHED BUSINESS

Case No. 19791

Action Requested:

Request for Reconsideration of conditions placed on approval of the amended site plan.

Presentation:

David Ellis, 6901 S. Redbud Ave., Broken Arrow, Oklahoma, stated he is an agent for Best Choice Motors. He stated he has new information regarding the size and use of the buildings on the property.

Comments and Questions:

Mr. Beach reminded the Board the original application was for a 50' X 75' building to be placed on the property, which amended the previously approved site plan. The Board approved the new building, but not to exceed 50' X 40' for the new building. Mr. White added it included the existing building be removed at the completion of the new building. Mr. Dunham noted on the original case for this property there was a restriction for no work to be conducted outside, as auxiliary use to auto sales. Mr. Beach noted the work was to prepare cars for sale, not commercial auto repair aside from auto sales. Mr. White asked which request the applicant needs reconsideration.

Mr. Ellis replied that the enlargement of the building is the one, for which they need reconsideration. Mr. White asked if that was all. Mr. Ellis added that they need more time to obtain revenue to remove the existing building.

Mr. Stevens asked about the size and number of bays. Mr. Ellis stated they plan for three bays of 22' 8 ½", 29, and 22' 8 ½". The building was pre-purchased at a sale.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 3-1-0 (White, Dunham, Perkins, "aye"; Stephens "nay"; no "abstentions"; Turnbo "absent") to **Reconsider** **Case**

No.19791 at the meeting on May 25, 2004, on the following described property:

N 150.00' of Lot 1, Block 1, Wilmot Addition, City of Tulsa, Tulsa County, State of Oklahoma.

*****.

Case No. 19800

Action Requested:

Reconsideration of a Variance to allow two dwelling units on one lot. SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD; a Variance of allowable size of accessory building from 500 sq. ft. to 718 sq. ft. SECTION 402.B.1.d. ACCESSORY USES IN RESIDENTIAL DISTRICTS; a Variance of 30% coverage of required rear yard. SECTION 210.B.5.a. YARDS; PERMITTED OBSTRUCTIONS IN REQUIRED YARDS; a Variance of the required land area per dwelling unit from 8,400 square feet to 7,216 square feet. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS; a Variance to expand a nonconforming structure. SECTION 1405. STRUCTURAL NONCONFORMITIES; and a Variance of the required parking from 4 spaces to 2 spaces. SECTION 1206. USE UNIT 6. SINGLE FAMILY DWELLINGS, located: 1147 S. Owasso.

Presentation:

Pam Harris, 6442 S. 106th E. Pl., Apt. # 317, stated she was speaking for the owners of the subject property. She asked for reconsideration of the application, as some of their supporters were denied the right to speak; and the applicant was denied the right to rebuttal. They were not given opportunity to clarify the concerns of the opponents and details of the project. She understood that the Board wants to help the public and that the focus is on helping people rather than on buildings and land. She listed four other reasons for grounds for reconsideration: 1) the vacation of a 30' x 150' strip of land removes the need for two of the variances, and is additional proof of hardship; 2) the erroneous of listing of six variances, which are only three; 3) the fact this is a remodeling of an existing dwelling unit since 1925; and 4) the disadvantage rendered when a full Board was not present to hear the case. The property was a corner lot and 12th Street is being vacated and will enlarge the lot to 80' x 150'. They met criteria for approval as listed in the Citizen's Guide to Planning and Zoning. She believed that only three of the variances were needed to comply with the code. She mentioned that when the number of Board members was reduced to three, a unanimous vote was necessary to approve the application and the applicants were not informed. Ms. Harris informed the Board that they have obtained thirty-five signatures in support of this application; and have spoken with forty-one of the sixty-five property owners in the Tracy Park Neighborhood.

Comments and Questions:

Mr. Boulden noted a statement in the letter requesting reconsideration referencing the Fair Housing Act and the American Disabilities Act. He asked where the quote

Interested Parties:

Paul Messmer, 1347 E. 26th Pl., submitted photographs and exhibits (Exhibits B-6, B-2, B-3). He informed the Board that the inspector measured the fence on Mr. Kincaid's property, as the fence is entirely on Mr. Kincaid's property on either side. The inspector measured 8 ½' and 9' in different places. He did try to talk with the applicants and pointed out the violation of height, but there was no resolution to the problem. He complained of the unsightly appearance of the fence on the outside. He pointed out exposed nails, different types of fencing material, and a lack of uniformity.

David Sherwood, 1341 E. 26th Pl., presented a petition signed by 64 neighbors in opposition (Exhibit B-5). He submitted a website advertising (Exhibit B-4) for lattice fencing, and photographs (Exhibit B-7) of the fence taken from his property. He made the point that the lattice work is part of the fence. He stated it is inconsistent with the neighborhood. Mr. Sherwood added that the fence contradicts the spirit, purpose and intent of the zoning code.

Comments and Questions:

Ms. Perkins asked if the outside of the fence was finished as it looks inside Mr. Kincaid's yard would it be as objectionable. Mr. Sherwood replied that would help but the main objection is the height. Mr. Boulden asked if the sharp point of the nails were to the outside of the fence. Mr. Sherwood replied some of them are and some just were not hammered in completely. They had to warn their children to stay away from the fence.

Applicant's Rebuttal:

Mr. Kincaid responded that if he had been contacted he would have been willing to repair the outside of the fence and has previously offered to do so. The offer was declined by the neighbors because they were opposed to the height of the fence. He stated the grade of the fence will be restored once the flower beds are raised. He discovered three fences with the same block of their house of similar height at the rear of those lots. Ms. Perkins asked if the other fences extend to the front of the lots. Mr. Kincaid replied that two of them extend to the front of the lot, and exceed 4'. Mr. Stevens asked if they were made of consistent building materials, to which Mr. Kincaid replied in the affirmative. Mr. Kincaid pointed out that the new fencing material is a different color but it will age and appear as the older material in time.

Board discussion ensued.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **UPHOLD** the decision of the Neighborhood Inspector that the fence on the subject property violates the zoning code; and to **DENY** a ***Special Exception*** to allow fence height from 4' and

Case No. 19808

Action Requested:

Variance of the required rear yard from 10' to 3' for the entire park. SECTION 403.B. BULK AND AREA REQUIREMENTS IN THE RMH DISTRICT, located: 715 North 96th East Place .

Presentation:

Roger Kruger, 6116 E. 30th St. N., submitted a site plan (Exhibit D-1) with the dimensions of the lots. They were granted a variance in BOA Case No. 18777. The park was built in 1968. The lots were designed to accommodate 60' homes, and the newer larger homes are on the average 80' long. The lots average 90' in length. They are limited to the size or number of homes they can bring in. Therefore, they requested this relief for setbacks. The area selected for a club house and storm shelter is no longer in a flood plain. They have complied with the regulations for the parking lot, pool, tournament size basketball and volleyball courts.

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, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of the required rear yard from 10' to 3' for the entire park, finding the park was developed prior to the time that larger mobile homes were made, and the larger homes would not fit on the smaller lots, and finding it would not be detrimental to the neighborhood, on the following described property:

The E/2 SE/4 NW/4 SE/4 and E/2 NE/4 SW/4 SE/4 and E/2 SE/4 SW/4 SE/4 and S/2 N/2 SE/4 SE/4 and N/2 NW/4 SE/4 SE/4 and SW/4 NE/4 SE/4 and S/2 SE/4 NE/4 SE/4 and N/2 N/2 NE/4 SE/4 SE/4 of Section 36, T-20-N, R-13-E of the IBM, according to the United States Survey thereof, less and except the following described tract: A strip, piece or parcel of land lying in the S/2 N/2 SE/4 SE/4 and in the E/2 E/2 SW/4 SE/4 of Section 36, T-20-N, R-13-E said parcel of land being described by metes and bounds as follows: Beg. at a point on the W line of said E/2 E/2 SW/4 SE/4, 166.38' N of the SW/c of said E/2 E/2 SW/4 SE/4, thence N along said W line a distance of 300.00'; thence N 71°36'48" E a distance of 346.76' to a point on the E line of said E/2 E/2 SW/4 SE/4 569.23' N of the SE/c of said E/2 E/2 SW/4 SE/4; thence S along said E line a distance of 311.76', thence S 73°28'40" W a distance of 343.22' to the POB, ALSO, Beg. at the SE/c of said S/2 N/2 SE/4 SE/4; thence W along the S line of said S/2 N/2 SE/4 SE/4 a distance of 1022.32'; thence N 71°36'48" E a distance of 407.49'; thence N 67°56'08" E a distance of 473.82'; thence N 88°54'38" E a distance of 190.00' to a point on the E line of said S/2 N/2 SE/4 SE/4; thence S along said E line a distance of 290.85' to the POB; AND less and except the following described tract: All that part of the SW/4 SE/4 of Section 36, T-20-N R-13-E of the IBM,

more particularly described as follows, to-wit: Beg. at the SE/c of said SW/4 SE/4; thence N 1°06'53" W along the E boundary of said SW/4 SE/4 a distance of 257.47'; thence S 73°28'40" W a distance of 343.22'; thence S 1°08'50" E a distance of 166.38' to a point in the S boundary of said SW/4 SE/4; thence N 88°52'03" E along the S boundary of said SW/4 SE/4 a distance of 330.79' to the POB, all of the City of Tulsa, Tulsa County, State of Oklahoma.

*.*****.

Case No. 19809

Action Requested:

Variance of average lot width from 100' to 95'. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located: 2510 East 45th Street.

Presentation:

Jeff Levinson, 35 E. 18th St., stated he represented the applicant. The City took five feet for right-of-way, and that is the hardship, otherwise they would have the required 100'. This lot was the subject of a prior lot-split. They plan to move the existing house, and replace it with two new houses.

Comments and Questions:

Mr. Beach noted this is a corner lot, which would have an increased setback requirement.

Interested Parties:

Bill Ashville, 4509 S. Atlanta, stated he is the neighbor to the south. These properties have a rural look with numerous trees. He is concerned about what they will view on the subject property. He submitted a letter of opposition from Bob and Ida Haney, 4431 S. Atlanta (Exhibit E-1).

Applicant's Rebuttal:

Mr. Levinson stated he spoke with one neighbor, Scott Peterson, and showed him the plans, and to his knowledge he did not object. These would be very nice homes and in compliance with the zoning code. It is to the applicant's benefit to preserve as many trees as possible. He indicated that Mr. Ashville was a beneficiary of the prior lot-split.

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of average lot width from 100' to 95', with condition: that the western lot (corner lot) be 100' wide and the other be 95', finding the 5' for right-of-way taken, after it was platted, is the hardship, otherwise this relief would not be required, on the following described property:

The N 180.00', less the E 110.00', thereof, in Tract 11, Barrow's Orchard Acres Addition, Subdivision in City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19810

Action Requested:

Variance of required parking. SECTION 1211. USE UNIT 11. OFFICES, STUDIOS AND SUPPORT SERVICES, located: NW/c 54th St. S. & Yale.

Presentation:

Roy Johnsen, 201 W. 5th St., Ste. 500, stated he represented the ownership of Park Towers at 54th and Yale. Construction of Park Towers commenced in the late 1970's and occupancy began in the early 1980's. The required parking at that time would have been 295 spaces and presently there are 297 spaces. They propose a two-lane drive-through facility for the bank. They would lose ten parking spaces. They did a parking study and found an abundance of parking, maximum use 159 spaces at a time. The drive-through facility would alleviate some of the parking demand and would take up ten of the existing spaces. The spaces are 9' but could be re-striped to 8 1/2'. A survey and a copy of a portion of the 1980 Zoning Code (Exhibit F-1 and F-2) were submitted to the Board to verify these facts.

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, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Variance** of required parking to 287 spaces, per plan, finding the building was built in 1980 when the parking code would have required 295 spaces, and history of this site has proved to be more parking than needed; finding it will not encroach or create any detrimental effects to the surrounding neighborhood; and finding the applicant can provide more parking on the west side of the building by narrowing the parking spaces, on the following described property:

Lot 1, Block 1, LaFortune Park Plaza, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 19811

Action Requested:

Special Exception to permit an auto car wash in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located: 10130 E. 31st St. S.

Presentation:

Steven Hjelm, 1503 S. Denver, stated he is the attorney for the applicant. The applicant purchased the property for the purpose of building a carwash. They plan for six bays, and three vacuums. To the east of the property is an auto repair facility. On the west is a Braum's, Wendy's and Quik Trip. A site plan was provided (Exhibit G-1).

Comments and Questions:

Mr. Dunham asked if they were not asking for any relief of screening to the south. Mr. Hjelm replied they would not seek relief of the screening requirement.

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, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a **Special Exception** to permit an auto car wash in a CS district, per plan, 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:

Lot 1, Block 1, Bradford Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19813

Action Requested:

Variance of the 35' setback on E. 62nd St. to 25' (setback approved per plan BOA-19053) this would amend previously approved site plan. SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS; and a Variance of screening wall on south for natural vegetation. SECTION 604.G.10. SPECIAL EXCEPTION USES IN OFFICE DISTRICTS, REQUIREMENTS, located: 6220 East 62nd Street South.

Presentation:

John Sanford, P.O. Box 33186, Tulsa, Oklahoma, stated they are doing a lot of earth work to prepare a good building site. They are going through more rock than they anticipated. They also realized they could not build a screening wall high enough for anything on the hillside. The neighbor to the south is dumping all of their water drainage on the subject property. That neighbor is working with them to solve the water issues. A site plan was provided (Exhibit H-1).

Interested Parties:

There were no interested parties present who wished to speak.

zoned R, and the use would not be detrimental to the neighborhood; and finding the building has existed for ten years, on the following described property:

Tract I: A tract of land in the N/2 E/2 W/2 NE/4 NW/4 of Section 8, T-19-N, R-14-E of the IBM, according to the U. S. Government Survey thereof, described as follows: Beg. on the W line of the N/2 E/2 W/2 NE/4 NW/4 said point being 70' S of the N line of Section 8; thence N 89°43'00" E, 150.00' to the Point or Place of Beg.; thence continuing N 89°43'00" E, 169.84'; thence S 00°25'39" E, 266.00'; thence S 89°43'00" W, 140.00'; thence N 00°25'39" W 13.50'; thence S 89°43'00" W, 179.82'; thence N 00°25'50" W, 92.50'; thence N 89°43'00" E 100.00'; thence N 00°25'50" W 137.50'; thence N 89°43'00" E 50'; thence N 00°25'50" W 22.50' to the Point and Place of Beg. Together with a perpetual easement reserved in a Deed recorded in the Office of the Tulsa County Clerk in Book 4197, Page 887 and appurtenant to said tract of land, which easement is across a tract described as follows, to-wit: Beg. at a point on the W line of the N/2E/2 W/2 NE/4 NW/4, said point beginning 70.00' S of the N line of Section 8, T-19-N, R-14-E; thence N 89°43'00" E and parallel with the N line of Section 8 a distance of 100.00' to the POB; thence N 89°43'00" E a distance of 50.00'; thence S 00°25'50" E a distance of 22.50'; thence S 89°43'00" W a distance of 50.00'; thence N 00°25'50" W a distance of 22.50' to the POB. And **Tract II:** The N 13.50' of the W 180.00' of a tract of land described as Beg. at a point 336.00' S NE/c N/2 E/2 W/2 NE/4 NW/4 of Section 8, T-19-N, R-14-E of the IBM, according to the U.S. Government Survey thereof; thence W 150.00'; thence N 13.50'; thence W 180.00'; thence S 337.50'; thence E 330.00'; thence N 324.00' to the POB, all of City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 19815

Action Requested:

Request for refund, per staff recommendation.

Board Action:

On **Motion** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Perkins, Stephens "aye"; no "nays"; no "abstentions"; Turnbo "absent") to **APPROVE** a Refund of \$231.00 to the applicant, Robert Harper, per staff recommendation, regarding the following described property:

Lot 3, Block 9, Saddlelane Addition, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:12 p.m.

Date approved: _____

Chair