

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 893
Tuesday, August 10, 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
Turnbo
White, Chair
Paddock

**MEMBERS
ABSENT**

**STAFF
PRESENT**
Beach
Butler
Matthews

**OTHERS
PRESENT**
Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Tuesday, August 3, 2004, at 11:32 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.

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

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 19877

Action Requested:

Variance of street frontage from 30' to 0'; Variance of lot area from two acres to one acre; Variance of land area from 2.2 acres to one acre; Variance of average lot width from 200' to 95' for lot-split L-19714. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT, located: 10901 S. Louisville Ave. E.

Presentation:

Mr. Beach informed the Board that the applicant, John Moody, has withdrawn this application.

Board Action:

No action needed.

Case No. 19862

Action Requested:

A variance of the required number of parking spaces from 14 to 13. SECTION 1211. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, located: 9202 S. TOLEDO AVE. E.

Presentation:

Mr. Beach stated the case was continued from the previous meeting, as it appeared two of the parking spaces were in a mutual access easement. The applicant has decided the parking could be re-striped for thirteen spaces. They were not able to prepare an exhibit in time for today. The applicant asked for a continuance to August 24, 2004.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19862 to the meeting on August 24, 2004, regarding the following described property:

LT 7 BLK 1, ASHTON CREEK OFFICE PARK

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MINUTES

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of July 27, 2004 (No. 892).

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UNFINISHED BUSINESS

Case No. 19865

Action Requested:

Special Exception to permit temporary outdoor sales (Use Unit 2); and a Variance of required setback from 100' from centerline to 50' from centerline. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2; SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS, located: 6390 E. 31st St. S.

Presentation:

Mark Rosenberger, 13545 E. 168th St. S., Bixby, Oklahoma, stated he originally asked for a temporary use tent, but was advised this was a better way to request relief.

Comments and Questions:

Mr. Beach responded to Mr. White that the maximum days allowable are 179. Mr. Rosenberger responded to Mr. Dunham that the hours of operation would be 8:00 a.m. to 8:00 p.m., and he would have one tent only.

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, Paddock, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit temporary outdoor sales (Use Unit 2), with the hours of 8:00 a.m. to 8:00 p.m.; and a **Variance** of required setback from 100' from centerline to 50' from centerline, finding the tent would be in line with signs and nearby structures; and finding it would not be a detriment to traffic ingress or egress from the center,

Amended Motion:

On **Motion of Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Paddock, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to include a **condition to approve** the tent for a time period of five years, second by Turnbo, regarding the following described property:

PT EA LOTS 2 & 3 BG 50' W MOST NLY NE COR LT 2 DUE S 405' TO PT 25' S N L LOT 3 W 300' N 405' E 300' POB BLK 1, SHERIDAN CIRCLE RESUB PRT B1 & B7 LORRAINE HGTS, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 19868

Action Requested:

Appeal from decision of City of Tulsa to issue building permits, located: 1503 E. 26th Pl. S.

Presentation:

Louis Bullock, 1393 E. 26th Pl., asked that the case be continued for two weeks, as they thought they may have the problem resolved.

Comments and Questions:

Mr. Beach stated two weeks would not be a problem if there is no additional notice requirement.

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, Paddock, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19868 to August 24, 2004.

LTS 3 THRU 5 & E/2 LT 6 BLK 12, TERWILLEGER HGTS

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Case No. 19884

Action Requested:

Special Exception to permit a children's nursery in an RS-3 district; variance of the required 25' setback from west property line to 5.3'. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS; SECTION 404.F. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS, located: 4817 E. KING St. N.

Presentation:

Scott Andler, 309 S.E. Frank Phillips, Blvd., Bartlesville, Oklahoma, indicated the existing house has been used for a daycare for many years. The owners have improved it to the highest rating given by DHS to daycares. They propose to purchase the property next door to extend the daycare to that property by an addition to the house over the shared property line. He submitted photographs of the properties (Exhibit C-1).

Comments and Questions:

Mr. Boulden pointed out that no tie agreement would be needed, as the building ties the properties together.

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, Paddock, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a ***Special Exception*** to permit a children's nursery in an RS-3 district; variance of the required 25' setback from west property line to 5.3', finding there is an existing condition with a garage that is 5.3' from the west property line, with a tie agreement, on the following described property:

ALL LT 9 & PRT LT 10 BEG NWC LT 10 TH SELY10.67 SW LY TO PT N70
POB LESS PRT LT 9 BEG SECR LT 9 TH NL Y70 SWLY TO PT SELY10.67
POB BLK 2, MODERN HGTS

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NEW APPLICATIONS

Case No. 19887

Action Requested:

Special Exception to permit a detached accessory building (carport) in the required front yard; Section 402.B.1.b -- Accessory Use Conditions -- Use Unit 6; Variance of restrictions for carports occupying a portion of the required front yard; SECTION 210.B.10.a.c. - Permitted Obstructions in Required Yards -- Use Unit 6, located: 313 E. 36th St. N.

Presentation:

Nolan Bonner, 313 E. 36th St. N., proposed to build a detached carport. He stated that his yard sets back about ten yards from the private street. His contractor started building before he obtained a building permit and BOA approval. He pointed out a line of trees and a fence along 36th Street. The carport is farther off the street than these.

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, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a detached accessory building (carport) in the required front yard; Section 402.B.1.b -- Accessory Use Conditions -- Use Unit 6; **Variance** of restrictions for carports occupying a portion of the required front yard SECTION 210.B.10.a.c. - Permitted Obstructions in Required Yards -- Use Unit 6, finding there are trees along the street; 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, and this is an existing condition, on the following described property:

LT 13 BLK 2, SKYLINE HGTS ADDN

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Case No. 19889

Action Requested:

Variance of minimum required rear yard of 40 feet to 31 feet to permit a detached garage in an AG district. SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICT, located: 7367 S. 26th Ave. W.

Presentation:

Mary Lynn Saurino, 7367 S. 26th W. Ave., proposed to build a detached garage. She explained there are two ravines, a three-foot French drain, the electrical box and a retaining wall limiting the space where they can build. It is for personal use

to store bikes, go-carts and other personal belongings. She submitted photographs (Exhibit D-1) to show the setting.

Comments and Questions:

Mr. White asked for specifics according to the photos where the garage would be located. Ms. Saurino described the garage exterior as stone and stucco to complement the house. There will not be a driveway to the garage. She informed the Board that the existing storage building would be removed when the garage is built. Mr. Dunham noted the wooded area would screen it from sight.

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, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of minimum required rear yard of 40 feet to 31 feet to permit a detached garage in an AG district, with conditions for no commercial or business activity be conducted in the garage, finding the unique shape and heavily wooded lot; and finding it would 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:

PRT NW BEG 594.12N & 391.56E & ON CRV LF 288.37 & ON CRV RT 445.19
& ON CRV LF 357.19 & ON CRV LF 101.02 SWC NW TO POB TH CRV LF
270.53 CRV RT 255.53 SE491.30 TO SL NW W660 NE329.61 POB SEC 10 18
12, 5.007AC

Case No. 19890

Action Requested:

Variance of required setback from centerline of Peoria from 35 ft to 31 ft to allow a structure (rock wall) SECTION 215. STRUCTURE SETBACK FROM ABUTTING STREETS, located: 1304 E. 27th St. S.

Mr. White abstained from Case No. 19890.

Presentation:

Nick LaRosa, 1304 E. 27th St., stated he has a narrow lot of 50'. The other RS-2 lots are 75'. He proposed to save the existing trees and bushes. He stated there are no utility lines for gas, electric or water through this area. This is an existing wall, which he built to replace the previous wall in the same location. He added that the wall is 11' from the curb. A map of the lots was provided (Exhibit A-1).

Comments and Questions:

Ms. Turnbo commented that the Board received a letter from the City of Tulsa stating there is a twelve-inch waterline underlying five feet of the City-owned property. Mr. LaRosa responded that he contacted Okie-Call Before You Dig and they assured him after inspection there was no utility along this area. Ms. Turnbo was concerned about the danger the wall would pose for utility workers should a waterline break and the wall collapse during repairs to the line.

Interested Parties:

Rita Henze, a City of Tulsa Real Estate Manager, stated their atlas shows a twelve-inch waterline at this location. They object to the wall because of the existing waterline. They have not had it surveyed since this case came to their attention. This site is not dedicated right-of-way for street purposes. She also stated objection to the potential traffic hazard for vehicles turning from 27th Street south onto Peoria. They determined the wall limited vision to less than thirty feet around the wall. She also pointed out a fire hydrant on the northwest corner of the lot, suggesting there is a waterline.

Comments and Questions:

Mr. Dunham and Mr. Paddock stated the wall does not limit a driver's vision turning south on Peoria Avenue.

An e-mail letter of opposition (Exhibit A-2) was submitted to the Board.

Applicant's Rebuttal:

Mr. LaRosa, reminded the Board that the wall has been there since 1927. He pointed out that it has a 2' x 2' concrete footer and stated the wall would not fall. He mentioned the phone line, which is about eight feet from the wall.

Board Action:

On **Motion** of **Turnbo**, the Board voted 4-0-1 (Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; White "abstained"; no "absences") to **CONTINUE** Case No. 19890 to the meeting on September 28, 2004 to obtain a survey and facts, on which to base a decision, on the following described property:

E 50 LT 25 BLK 2, SUNSET VIEW ADDN

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Case No. 19891

Action Requested:

Variance of building setback from the center line of Sheridan Road from the required 100' to 75' to permit reconstruction of a restaurant in a CS-zoned district SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS, located: 2104 S. Sheridan Rd. E.

Presentation:

Ben Aguirre, 1204 SW 129th St., Oklahoma City, Oklahoma, with McDonald's Corporation, requested relief from a setback at the location of an existing store. They proposed to demolish the existing structures and build a new one for a test re-image. This is the first of several that will be torn down and built new in the Tulsa area as they determine a new look for their stores nationwide. He submitted an exhibit packet to the Board (Exhibit B-1). The new structure would be moved more to the east. He pointed out the proposed site layout. The plan includes a two-lane drive-through. He indicated the retaining wall on the northwest property line is the hardship.

Comments and Questions:

Mr. Beach commented that he could not find 42 parking spaces on the site plan. Mr. Aguirre stated that the site plan provided may not be the most current plan. Mr. Dunham and Ms. Turnbo considered the hardship to be self-imposed.

Interested Parties:

There were no interested parties present who wished to speak.

Board Action:

On **Motion of Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of building setback from the center line of Sheridan Road from the required 100' to 75' to permit reconstruction of a restaurant in a CS-zoned district, finding a lack of hardship on the following described property:

BEG 50W & 50S NEC NE NE NE TH S200 W200 N200 E200 POB SEC 15 19
13

Case No. 19892

Action Requested:

Variance of front yard setback from required 25' to 15' 6"; Variance of a side yard from required 5' to 2' 8"; Variance of livability space per dwelling unit for a non-conforming lot from 3,340 to 3204 sq. ft. SECTION 403 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 7116 E. 7th St. S.

Presentation:

Thomas J. Fulton, 16206 S. Lewis Ave., Bixby, Oklahoma, stated he is the engineer for Dan Tucker, the owner of the property. He informed the Board there are existing conditions where the additions were built without building permits. They proposed to remodel the house and bring it into compliance with the zoning code.

Comments and Questions:

Mr. White asked when the building project started. Mr. Fulton replied it was prior to 1996. They proposed to maintain the existing footing, tear down the existing fences at the front and on the east and west sides, and remove the awning on the west of the house. Mr. Fulton informed the Board they also proposed to remove the parking area to the west of the driveway.

Interested Parties:

Jim Powell, 7106 E. 7th St., stated his property abuts the west side of the subject property. He complained that the roof encroaches over his fence about six to eight inches and rain and snow flow off the roof into his yard. He indicated the livability space comes over the storm sewer. Mr. Powell stated if the applicant can improve these situations he would remove his objections.

Comments and Questions:

Mr. White asked when these additions started. Mr. Powell responded that the additions began with the current property owner about eight or nine years ago.

Applicant's Rebuttal:

Mr. Fulton responded that the roof Mr. Powell referred to is actually a corrugated plastic awning. They plan to remove the awning, and the actual roof is within the allowable building line. Mr. White asked what prompted this application. Mr. Fulton replied it is in response to several notices of violation. Mr. White commented that this property has not come before the Board in the last nine years.

Board Action:

On **Motion** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Variance** of front yard setback from required 25' to 15' 6"; **Variance** of a side yard from required 5' to 2' 8"; **Variance** of livability space per dwelling unit for a non-conforming lot from 3,340 to 3204 sq. ft., finding lack of a hardship, finding the encroachments were self-imposed and built without building permits, on the following described property:

LT 9 BLK 17, SHERIDAN HILLS

Case No. 19893

Action Requested:

Variance of required average lot width from 60' to 40.47' for westerly tract and 45.71' for easterly tract in an RS-3 zoned district to permit a lot-split. SECTION 403 BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS, located: 1025 E. 33rd Pl. S.

Presentation:

Dean Solberg, 5711 E. 71st St., Ste. 100B, stated he represented the owner. There is an existing duplex on the property. They propose to obtain a lot-split to

build two homes of one and one-half to two stories, about 1900 sq. ft. each, for sale. The lots are irregularly shaped. He provided a map (Exhibit F-1) to illustrate the proposed property division.

Comments and Questions:

There was confusion regarding the dimensions of the lot. Mr. Beach stated the average lot width as required by the ordinance is an average of the front and rear lot widths. Mr. Dunham requested a survey that would identify all easements, dimensions, and to certify the floodplain.

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, Stephens, Paddock "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 19893 to the meeting on August 24, 2004 for the applicant to obtain more information for the Board, on the following described property:

PT.LT 3 BEG.NW.COR. LT 3 TH.E.125.8 TH.S.140'W.84. 2.TH.NW.TO. BEG.
BK 1, PEEBLES ADDN

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There being no further business, the meeting was adjourned at 3:00 p.m.

Date approved: _____

Chair