

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 863  
Tuesday, April 22, 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  
Huntsinger

**OTHERS  
PRESENT**

Boulden, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, April 16, 2003, at 2:05 p.m., as well as at the Office of INCOG, 201 W. 5<sup>th</sup> 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.

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**UNFINISHED BUSINESS**

**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 129<sup>th</sup> E. Ave. & I-44.

**Presentation:**

Mr. Beach reminded the Board this case has been continued a couple of times previously. The current status of the business sign off of the premises it is considered to be an outdoor advertising sign. Since the last hearing ODOT and the City of Tulsa would not approve the sign. They may relocate the sign. Staff

recommends continuing to the case to May 13, 2003 to allow them time to work it out.

**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 May 13, 2003 to allow time for the applicant to work out changes, on the following described property:

Lots 2 and 3, Block 1, Cooley Creek Center I, City of Tulsa, Tulsa County, State of Oklahoma.

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**CASES TO CONTINUE AND CASES TO WITHDRAW**

**Case No. 19566**

**Action Requested:**

Special Exception to allow an office use in an RM-2 zoned district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 11; a Variance of building setback of an existing structure from centerline of public street from 50' to 47'. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; a Variance of building setback of an existing structure from an abutting R district from 10' to 7'. SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS; a Variance of requirement that a landscaped area 5' in width be provided along abutting street right-of-way. SECTION 1002.A.2. LANDSCAPE REQUIREMENTS; a Variance of requirement that abutting residential district shall be separated from off-street parking area by a landscape area not less than 5' in width. SECTION 1002.A.3. LANDSCAPE REQUIREMENTS; and a Variance of design standards of required off-street parking spaces to permit tandem parking of 2 spaces (existing drive and existing garage) and existing shared access with an abutting lot and 2 parking spaces within a proposed circular drive having a minimum width of 8'. SECTION 1301.F. OFF-STREET PARKING AND OFF-STREET LOADING; GENERAL REQUIREMENTS, located 248 W. 16<sup>th</sup> St.

**Presentation:**

Mr. Beach informed the Board that a protestor asked for a continuance of this case to May 13, 2003 (Exhibit E-1).

**Roy D. Johnsen**, 201 W. 5<sup>th</sup> St., Ste. 500, asked for the reason of the request for continuance.

Mr. White read the letter from the Zoning Chair of the Riverview Neighborhood Association, Tracy Horner-Shears, requesting a continuance to allow time for the association to collect information on the effects to the residents. The other reason

is to avoid conflict with certain probate hearings that may affect the sale of the property, scheduled for today.

Mr. Johnsen stated he would not object.

**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. 19566 to the meeting on May 13, 2003 to allow neighborhood residents to collect information, on the following described property:

E 60.00' Lot 16, Block 6, Stonebraker Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**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 April 8, 2003 (No. 862).

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**NEW APPLICATIONS**

**Case No. 19557**

**Action Requested:**

Special Exception to permit a manufactured home in an RS-3 district. SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9; a Variance of time limit of one year. SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS; and a Variance of 5' side yard requirement to permit building across lot lines. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS, located 1 N. 47<sup>th</sup> W. Ave.

**Presentation:**

**Rebecca Brownlow**, 4920 S. Quaker Ave., proposed to place a doublewide mobile home for a residence. She was looking at new and used mobile homes.

**Comments and Questions:**

Mr. White asked about a couple of other mobile homes that appear to have been moved in. She stated the man she bought her property from, owns that property.

**Mr. Cooper arrived at 1:10 p.m.**





**Case No. 19560**

**Action Requested:**

Variance to permit a home day care to be located on a lot within 300' of another day care home. SECTION 402.B.5.g. ACCESSORY USES IN RESIDENTIAL DISTRICTS, Accessory Use Conditions – Use Unit 6, located 3343 E. Xyler St.

**Presentation:**

**Lori Jones**, 3343 E. Xyler St., stated her request for a variance for a home day care center. There is an existing day care within 300'. She plans to have seven children and no other workers. The ages are from infant to 7 years old. She is licensed by DHS. She told the Board she would have one worker that would come in only when needed. The seven children would not be there all at the same time.

**Comments and Questions:**

Ms. Jones responded to questions from the Board, stating she has two children of her own; and her aunt would be a substitute staff member.

**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 **Variance** to permit a home day care to be located on a lot within 300' of another day care home, 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 2, Block 3, Xyler Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19561**

**Action Requested:**

Variance of sign height from 50' to 75'. SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CS District Use Conditions for Business Signs – Use Unit 17; a Variance of maximum permitted display surface area from 725.65 square feet to 1013 square feet (existing sign 225 sq. ft.). SECTION 1221.D.3. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CS District Use Conditions for Business Signs; and a Variance of maximum 500' display surface area for any single business sign to 788 square feet. SECTION 1221.D.4. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, CS District Use Conditions for Business Signs, located 8130 E. Skelly Dr.

**Presentation:**

**John Moody**, 1924 S. Utica, for Jim Glover Chevrolet, stated the reason for the request is the hardship caused by the new overpass construction. There is a message board sign existing on the service road along the expressway. He submitted a photograph of the sign (Exhibit B-1). He described the problems that block the visibility of the sign, including other large signs, lack of height and small display surface area. They propose to add the name of the dealership and Chevrolet emblem on top of the existing message board. Photographs of the area were submitted (Exhibit B-2). He pointed out that the homes nearby would not be impacted.

**Comments and Questions:**

Mr. Dunham questioned how the change in height would affect the setback requirements. Mr. Beach responded that at 75' in height, it would have to be set back 50' from the property line. Mr. Moody stated he understood they would need to come back to the Board for a variance of the setback requirements.

**Jim Glover**, 8130 E. Skelly Dr., informed the Board that numerous customers have let them know they passed the exit on the highway because they could not see the sign.

**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 **Variance** of sign height from 50' to 75'; a **Variance** of maximum permitted display surface area from 725.65 square feet to 1013 square feet (existing sign 225 sq. ft.); and a **Variance** of maximum 500' display surface area for any single business sign to 788 square feet, per plan presented April 22, 2003, finding the elevated expressway and other signs block the visibility; and to **CONTINUE** to the meeting on May 13, 2003 to advertise for more relief, regarding the following described property:

Lot 5, Block 1, Groveland Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19562**

**Action Requested:**

Variance of required off-street parking from 24 spaces to 10. SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES, Off-Street Parking and Loading Requirements; or alternatively: a Special Exception to permit required off-street parking on an adjoining lot. SECTION 1301.D. OFF-STREET



Quincy. They have met with some of the neighbors and they were in support of the application. The ridge height of the main structure would be 41', with gabled roofs, and a residential look. The property is irregular in shape; there is a major drainage channel that would be re-routed; and some existing trees to be preserved for established landscaping. There would be no nursing care facilities.

**Comments and Questions:**

Mr. Dunham mentioned there would be an 88 parking space requirement. Mr. Fuller responded they have revised the site plan (Exhibit D-1) to show provision for the 88 spaces.

**Interested Parties:**

**Larry Williams**, 7131 S. Quincy, stated opposition to the special exception instead of re-zoning. The property could require evacuation for flooding as in 1986. Ms. Turnbo commented that re-zoning could allow a higher intensity than with this special exception.

**Applicant's Rebuttal:**

Mr. Fuller responded that this is a very residential project. The units would not have private kitchens, but a commercial kitchen and dining room would provide the three meals per day.

Mr. Cooper asked for the hardship regarding the height variance. Mr. Fuller offered reasoning that it would be in keeping with the nature of the neighborhood.

Mr. Beach reviewed the revised site plan and found the changes for additional parking spaces.

Mr. Fuller mentioned the possibility of the need for an extension of the driveway to Quincy for emergency access with a crash gate.

**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** for a Use Unit 8 Congregate Care Retirement Facility within the RS-2 district; a **Special Exception** for alternative screening wall or fence along abutting residential districts; and a **Variance** to increase the maximum building height in a residential district from 35' to 41', per plan submitted April 22, 2003, with condition that if Fire Department requires a crash gate on Quincy Avenue it would be considered part of the plan, finding the hardship on the variance of the building height to be the shape of the lot, drainage problems to be addressed, and a greater number of existing trees can be preserved, on the following described property:

Lots 3 - 7, Block 2, River Grove Addition, City of Tulsa, Tulsa County, State of Oklahoma.

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**Presentation:**

**Steve Brown**, 2488 E. 81<sup>st</sup> St., stated he is an architect. There are 262 existing parking spaces. Mr. Beach informed the Board they do not meet the parking requirements.

**Comments and Questions:**

Mr. Dunham informed Mr. Brown of his options for action regarding the need for relief of parking requirements.

**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 **CONTINUE** Case No. 19567 to the meeting on May 13, 2003 to advertise for more relief if needed, regarding the following described property:

A part of the SW/4 SW/4, Section 30, T-19-N, R-13-E, beg. at a point on the N line of SW/4 495.00' due E from the centerline of S. Peoria, thence due E on the N line of said SW/4 490.00' to a point, thence due S 443.88', thence due W 490.00', thence due N 443.88' to the point and place of beginning; AND Lots 7, 8, and 11, Block 17, Bellaire Acres Second Extension, AND all that part of Lot 3, Section 30, T-19-N, R-13-E, more particularly described as follows, to-wit: Commencing at a point 50' E of the W boundary line and 25.00' S of the N boundary line of the S/2 of said Lot 3, thence S along a line parallel to and 50.00' E of the W boundary of the S/2 of said lot, a distance of 216.55' to a point 420.00' N of the S boundary line of said Lot 3; thence E along the N boundary line of Southern Center Addition a distance of 435.00' to the NE/c of said Southern Center Addition; thence S along the E boundary line of said Southern Center Addition a distance of 294.00' to the true POB; thence continuing S along the E boundary line of said Southern Center Addition to Tulsa a distance of 126.00' to a point in the S boundary line of said Lot 3 a distance of 285.00'; thence N a distance of 126.00'; thence S 89°59'13" W a distance of 285.00' to the POB; AND part of Gvmt Lot 3, Beg. 398.74' W of the SE/c of Gvmt Lot 3, thence N 126.00', thence W 100.00' thence S 126.00' thence E 100.00' to the POB in Section 30, T-19-N, R-13-E; AND part of Gvmt Lot 3, beg. 498.74' W of the SE/c of Gvmt Lot 3, thence N 126.00', thence W 14.88', thence S 126.00' thence E 14.88' to the POB in Section 30, T-19-N, R-13-E of the IBM; AND part of the S/2 of Lot 3, Beg. 298.74' W of the SE/c of S/2 of Lot 3, thence N 126.00', thence W 100', thence S 126.00', thence E 100.00' to the POB of Section 30, T-19-N, R-13-E, all in the City of Tulsa, Tulsa County, State of Oklahoma.

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**Case No. 19568**

**Action Requested:**

Special Exception to allow automobile sales in a CS zoned district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17, located SW/c E. 61<sup>st</sup> St. & Mingo.

**Mr. Dunham abstained from Case No. 19568.**

**Presentation:**

**Roy D. Johnsen**, 201 W. 5<sup>th</sup> St., Ste. 500, stated he represented Vick Noe. He proposes to open a used car lot on the property. There would be no alteration of the exterior of the building or additional paving or change of the landscaping. The existing sign would be used with a new face. He noted there was prior approval for auto sales along 61<sup>st</sup> St. He cited the history of the zoning in this area. He stated that auto sales are not incompatible with CS uses and retail centers. Mr. Noe does not plan to use promotional signage, balloons, or banners on the lot. He pointed out that it is near a residential neighborhood. Currently there are cars parked on the lot but it is not open for business. These cars are inventory left over from a previous business sale. Mr. Noe proposes a maximum of forty cars, parking spaces for eight customers and parking for employees at the back of the building.

**Comments and Questions:**

Mr. Cooper questioned if there would be other promotional things on the lot, as in shoe polish prices on the windshields, other than the things he listed that would not be on the lot.

**Vick Noe**, 3122 E. 70<sup>th</sup> St., stated he planned to use a marquee below the existing sign. He assured the Board that he does not want it to look like tinsel town.

Ms. Perkins asked if all cars would be operable. Mr. Noe responded that all cars would be operable and there would be no mechanical work on the premises. The cars would be late models. He pointed out this lot would generate six to eight million dollars in sales. The hours of operation would be 8:30 a.m. to 7:30 or 8:00 p.m., Monday through Saturday. He plans to have three employees.

Mr. Boulden commented that off-street storage of autos in a CS zoned district is not allowed. Mr. Noe responded that he tried to get his application on the agenda sooner but missed the deadline, but he did not realize this was not allowed because he got permission from the property owner. He went on to say that he would not use shoe polish to advertise on the windshields. He would use vinyl lettering on about every third car. He makes sure the property is mowed and kept clean. He has the property leased for two years.

**Interested Parties:**

Mr. White stated the Board had received twelve letters of opposition, and eight of them are from the shopping center directly to the east; and letters from Union

Square, Eaton Square, John Selph, and Community Bank and Trust Co. (Exhibit F-2).

**John Moody**, 1924 S. Utica, stated he represented Phil Ryan, a partner in the Union Square Limited Partnership. Union Square shopping center is directly across the street from the subject property. The concerns are that the history of the area has changed significantly over the past twenty years. He pointed out there is already a used car sign up and cars parked on the lot. He submitted photographs and letters of opposition (Exhibit F-1). He read a portion of a letter from Mr. Selph, stating he does not think a car lot is compatible with the church, school and new development in the area. He expressed concern that this would set a precedent for multiple car lots as on Memorial and 11<sup>th</sup> Streets.

**Phil Ryan**, 9626 S. Vandalia Ave., stated he is the owner of Union Square. He recently remodeled the center; Mingo was widened; and the whole area is being improved. He expressed concern that the car lot could be enlarged later and would not be compatible with other development.

Mr. Cooper noted it is only .37 acres, which is small. He asked for their suggestions of what would work there. Mr. Ryan responded it would be good for a restaurant. Ms. Perkins reminded them that two restaurants tried and failed on that property.

**Applicant's Rebuttal:**

Mr. Johnsen responded that he does not believe that a car lot is damaging to retail use. He noted industrial property for sale near the school, and a new auto body shop near the school. He added that IL and CS properties side by side has been proven to work well at such places as S. Memorial, 41<sup>st</sup> and Sheridan, 41<sup>st</sup> and Memorial, and S. Yale. He suggested conditions for proper advertising; a time limit of two years; no auto wash; no mechanics or repairs; no inoperable vehicles; hours of operation; no promotional advertising; and limiting the number of cars.

**Board Action:**

On **MOTION** of **Perkins**, the Board voted 3-1-1 (Turnbo, Perkins, Cooper "aye"; White "nay"; Dunham "abstained"; no "absences") to **APPROVE** a **Special Exception** to allow automobile sales in a CS zoned district, with conditions for only 40 cars maximum; no auto wash, no repairs of any kind; no inoperable vehicles stored or for sale; no streamers or tinsel ever to be added to the cars or poles; no additional banners, no flags on antennas, no flashy promotions, no ramps, display of cars only on the ground, days and hours of operation: Monday through Saturday 8:30 a.m. to 8:00 p.m.; and a two year time limit on this motion, regarding the property described as follows:

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

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## **Case No. 19569**

### **Action Requested:**

Variance to Section 1221.C.2.C requiring 200' setback from R district when using a changeable copy sign, which is visible from the R district, to allow a 63' setback when using an existing sign structure. SECTION 1221.C. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs, located 2850 E. 101<sup>st</sup> St. S.

### **Presentation:**

**Richard Craig**, 810 W. Walnut, Collinsville, Oklahoma, represented the owner. There are 137' of frontage on 1<sup>st</sup> Street. The new sign is to show additional climate control storage. There is more commercial traffic now than when he first opened. The sign did not get approval for a permit. They proposed to change the sign panel toward the RS district so it does not change or flash, with only a constant light display. The height increase would be two feet.

**Jeff Levinson**, 35 E. 18<sup>th</sup> St., stated he represented the owner of the tract. He commented that the property is unique, near the turnpike and 101<sup>st</sup> St., and a residential neighborhood. He suggested the changeable side of the sign face the west, not the R district. A letter of intent was provided (Exhibit G-1).

### **Comments and Questions:**

Mr. White asked about the hours of operation. Mr. Levinson replied it will be open from 6:00 a.m. to 10:00 p.m. Ms. Perkins asked if the existing sign is lit from within. Mr. Levinson replied in the affirmative. The new message center has an incandescent lamp, which is 10 watts by day and dims at night to about 7 or 7 ½ watts.

### **Interested Parties:**

**Chris Medlock**, 2919 E. 82<sup>nd</sup> Pl., stated he is the City Councilor for District 2. He and his assistant have been in conversation with the neighborhood association over the past several weeks. The ordinance calls for a 200' abutment and it is now at 60'. The lights are bright and shine into more than nine homes along 101<sup>st</sup> Street and several homes and Evanston. He was questioning how this sign got through in the first place. The neighborhood association is opposed. He asked that if the Board was inclined to approve the application that a continuance be granted so it could be presented to the neighborhood association.

**Larry Swanson**, 10122 S. Evanston, stated his property backs up to the storage unit. He opposed it in the beginning, but he checked out the look of other units built by the same company and thought it was ok. He was not in favor of the height of the structure when it was constructed. He wants their business to succeed but he does not want it to be neglected. He was in favor of the compromise so that the lights are not directed toward the neighborhood. He is

opposed to a sign with flashing lights, even facing away, stating it should not be that close to a residential neighborhood.

**Applicant's Rebuttal:**

Mr. Levinson pointed out the subject property was zoned CS for more than ten years before the subdivision was developed. It could have been a shopping center. Mr. Craig pointed out to Mr. Levinson that the new sign would not be brighter but less bright than the old sign. The wattage is lower on the new sign, and the height is only two feet more.

Mr. Beach commented that the applicant was issued denial of a permit to have a changeable message copy sign closer than 200' visible from a residential district. They entered a letter of intent to not place the flashing sign facing the neighborhood. Mr. Beach questioned why they came before the Board instead of going back for a permit.

**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 **Variance** to Section 1221.C.2.C requiring 200' setback from R district when using a changeable copy sign, which is visible from the R district, to allow a 63' setback when using an existing sign structure, finding no hardship, on the following described property:

Lot 1, Block 1, Storage Center I, City of Tulsa, Tulsa County, State of Oklahoma.

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There being no further business, the meeting was adjourned at 4:17 p.m.

Date approved: \_\_\_\_\_

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Chair